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**LOS ANGELES UNIFIED SCHOOL DISTRICT  
ADMINISTRATIVE OFFICES**

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**VIVIAN EKCHIAN**  
Interim Superintendent of Schools

March 30, 2018

**SENT BY U.S. MAIL AND EMAIL**

Ruben Alonzo  
Excelencia Charter Academy  
3221 W Temple St APT 218  
Los Angeles CA, 90026

**FINAL NOTIFICATION OF SPACE OFFERED TO EXCELENCIA CHARTER ACADEMY (CAL. CODE REGS., TIT. 5, § 11969.9, SUBD. (H))**

Dear Charter School Operator:

Pursuant to California Code of Regulations, title 5, section 11969.9, subdivision (h), the Los Angeles Unified School District ("District") provides this final notification of space offered to Excelencia Charter Academy ("Charter School").

**1. Response to Charter School's Concerns and/or Counter Proposals:**

In compliance with California Code of Regulations, title 5, section 11969.9, subdivision (g), on or before March 1, 2018, Charter School was required to respond to the District's Preliminary Proposal expressing any concerns, addressing differences between the Preliminary Proposal and Charter School's facilities request and/or making counter proposals. In its Final Statement of Reasons, the California Department of Education clarified that the purpose of this requirement is to encourage discussion and negotiation between the parties **before a formal offer is prepared**. (Cal. Dept. of Ed., Final Statement of Reasons re: Implementing Regulations, p. 12.) Negotiations between Charter School and the District must occur prior to the District's issuance of a Final Notification of Space pursuant California Code of Regulations, title 5, section 11969.9, subdivision (h). The California Department of Education explicitly stated that a Charter School's May 1 written response to a Final Notification of space must accept or reject the formal offer **in its entirety**. The intent is for formal negotiations to occur **before the final formal offer is provided, not after**. (*Id.* at p. 13.)

In accordance with California Code of Regulations, title 5, section 11969.9, subdivision (i) and the intent expressed by the California Department of Education, Charter School is solely permitted to accept or deny **the entirety** of space offered in this Final Notification of Space. Charter School may not partially accept some of the space offered and reject other space offered, and **it will be obligated to pay the entirety of the pro-rata share** identified herein should it accept the offered

space. However, Charter School will have the right to negotiate a shared use arrangement with the co-located District School program(s) as to the shared use spaces at the School Site.

- **Charter School's objection that the District failed to provide room numbers or identify classrooms in the preliminary proposal.**

The District is not required to specifically identify the teaching stations offered to Charter School prior to the time it provides Charter School with a final notification of space. California Code of Regulations, title 5, section 11969.9, subdivision (h) provides that "[o]n or before April 1...the school district shall submit in writing a final notification of the space offered to the charter school ... The notification shall specifically identify: (1) the teaching station, specialized classroom space and non-teaching station space offered for the exclusive use of the charter school ... (4) the specific location or locations of the space..."

- **Charter School's Attempt to Accept the Preliminary Proposal**

Although the District welcomes Charter School's expressed intent to accept the District's proposal on those terms, please note that the preliminary proposal is not a final offer and therefore cannot be accepted as such. Rather, the instant correspondence dated March 31, 2018, constitutes the District's Final Notification of Space to Charter School. The District looks forward to receiving confirmation that Charter School accepts this Final Notification of Space.

- **Allocation of Teaching Spaces**

The District has received some objections to the comparison group schools "capacity" analysis enclosed in its Preliminary Proposals, and to the allocation of exclusive use teaching stations based on this analysis. To the extent Charter School shares these concerns and/or has articulated these concerns in its initial response to the District's Preliminary Proposal or supplemental response, if any, the District responds as follows:

The District's comparison group schools analysis and allocation of exclusive use teaching stations to Charter School complies with California Code of Regulations, title 5, section 11969.3, subdivision (b)(1) ("section 11969.3, subdivision (b)(1)"), Education Code section 47614, and *California Charter Schools Association v. Los Angeles Unified School District* ("CCSA v. LAUSD") (2015) 60 Cal.4th 1221.

In 2000, the voters of California approved Proposition 39, which amended Education Code section 47614 to require public school facilities to be "shared fairly" among students attending District operated schools and charter schools. (Ed. Code, § 47614, subd. (a); *Cal. School Bds. Assn. v. State Bd. of Ed.* (2011) 191 Cal.App.4th 530, 539.) In order to achieve fair sharing of facilities, Proposition 39 mandates "reasonable equivalence" in the facilities provided to charter school and traditional District school children. (Ed. Code, § 47614, subd. (b).) The Proposition 39 implementing regulations set forth criteria to be used to determine the type and quantity of facilities to be allocated to charter schools. "Reasonable equivalence" is determined using two primary criteria: "capacity" and "condition." (Cal. Code Regs., tit. 5, § 11969.3, subd. (b).) Section 11969.3, subdivision (b)(1) focuses on the "capacity" of facilities provided to charter schools and, in particular, the number of exclusive use classrooms allocated to charter schools.

Section 11969.3, subdivision (b)(1) dictates the manner in which exclusive use classrooms are to be provided to charter schools requesting facilities under Proposition 39. Section 11969.3, subdivision (b)(1) states, “[f]acilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools.” (Cal. Code Regs., tit. 5, § 11969.3, subd. (b)(1), emphasis added.) In *CCSA v. LAUSD*, the California Supreme Court addressed the meaning of this requirement.

In *CCSA v. LAUSD*, the California Supreme Court held, “In responding to a charter school’s request for classroom space, a school district must follow a three-step process. First, the district must identify comparison group schools as section 11969.3(a) prescribes. Second, the district must count the number of classrooms in the comparison group schools using the section 1859.31 inventory and then adjust the number to reflect those classrooms ‘provided to’ students in the comparison group schools. Third, the district must use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA.” (*CCSA, supra*, 60 Cal.4th at 1241.)

In responding to Charter School’s facilities request, the District complied with the three-step process articulated by the California Supreme Court. The District properly identified Charter School’s comparison group schools. The District also provided Charter School with the inventory prepared by the District in compliance with California Code of Regulations, title 2, section 1859.31. The District counted the number of standard size classrooms at Charter School’s comparison group schools, per California Code of Regulations, title 2, section 1859.31, solely adjusted to exclude housing identified as interim housing in compliance with section 11969.3, subdivision (b)(1). The District identified that number at each comparison group school in the “Capacity Sheet” of the Comparison Group Schools Analysis attached to Charter School’s Preliminary Proposal. The District then adjusted the number of standard size classrooms to reflect those classrooms “provided to” students in the comparison group schools. The District identified the total number of “classrooms provided” for each comparison group school in the “Capacity” page of the Comparison Group Schools Analysis. The District used the resulting number in the denominator in the ADA/classroom ratio for allocating classrooms to Charter School based on the projected ADA accepted by the District.

To facilitate this three-step process, the District analyzed the classroom space at Charter School’s comparison group schools by using a Capacity Assessment Report (“CAR”) for each comparison group school. The CAR identifies the number of classrooms, and the use of those classrooms, at a comparison group school. Additional considerations not reflected in the CAR may impact actual classroom usage at Charter School’s comparison group schools in the 2018-19 school year. These considerations may include, but are not limited to: the addition or expansion of co-located charter school(s); construction and/or modernization projects impacting classroom space; classrooms that are damaged and/or become unusable; and/or the addition of special education, pre-kindergarten, adult education or other programs. The District relied on the CAR for each of Charter School’s comparison group schools in its preparation of the Comparison Group Schools Analysis “Capacity” page enclosed in the Preliminary Proposal. Neither *CCSA v. LAUSD* nor section 11969.3, subdivision (b)(1) require the District to provide Charter School with any CARs or other

documentation beyond the capacity calculations enclosed in the Comparison Group Schools Analysis. Therefore, the Preliminary Proposal fully complied with the three-step process articulated by the Supreme Court in *CCSA v. LAUSD* and section 11969.3(b)(1). However, to ensure full transparency in the District's process for allocating classrooms, and to alleviate Charter School's concerns, if any, the District is voluntarily making all CARs available to each charter school that requested space for the 2018-19 school year. The CARs are available online at <http://achieve.lausd.net/Page/14291>. By doing so, the District is not acknowledging that it under any legal obligation to include the CARs as part of its current or future space allocation process.

For the 2018-2019 Proposition 39 cycle, the District has followed a critical path schedule of steps, from the initial request by a charter school for facilities to preparation for making facilities ready for occupancy, in order to timely meet the Proposition 39 timelines. As part of this process, the District utilized a capacity assessment determination in an improved process that is now called Electronic Capacity Assessment Review ("E-CAR"). As it did last year, E-CAR encompassed school sites throughout the District. Specifically, over the course of four weeks, principals at over 700 District campuses utilized a comprehensive web based application to specifically identify and validate classroom space utilized as teaching stations and set asides, along with classroom numbers, locations and sizes. Additionally, they identified classrooms occupied by special education programs, charter schools, preschools, adult education programs and other third party users, swing space needed for construction projects, options programs, and other classrooms out of service or mandated for removal due to legal and/or safety requirements. Beginning in of August 2017, SMS staff conducted a comprehensive analysis of the use of District school facilities, that is, E-CAR. The purpose of E-CAR is to assess with precision the capacity of each school site in several respects: the number of classrooms, the manner in which those classrooms are used, and the school's operating capacity. E-CAR entails a detailed review of the present use of District school sites and an analysis of the projected future uses of those facilities. The analysis includes reporting of data by individual schools, which is analyzed by SMS staff to confirm its accuracy and to ensure that available space is used efficiently and uniformly throughout the District. E-CAR commenced with a period of in-office preparation during which SMS staff examined materials submitted by all District schools in the previous year for accuracy as well as for consistency with previous assessments' classroom usage and availability. The E-CAR process involved school principals logging into a web based application to record their school's enrollment and review and confirm details regarding the school site's classrooms and their respective utilization. Within this application, classroom data is associated with a spatial database that is displayed as building floor plans. SMS staff then reviewed and analyzed the submissions by District schools of the school site's classrooms and their respective utilization. By utilizing this process, the District was able to determine specific capacity and usage information regarding each District school site, as memorialized in a CAR. The CAR data was then utilized for the capacity calculations enclosed in the Comparison Group Schools Analysis.

The District received some objections stating, "As the number of classrooms provided to students varies by grade range in order to meet the age-appropriate facilities needs of students in each grade range, the number of classrooms should be counted at each grade range." There is no such requirement anywhere in the language of section 11969.3, subdivision (b)(1) and this

methodology would directly violate the Supreme Court's holding and articulated three-step process in *CCSA v. LAUSD*.

The District also received some objections regarding the exclusion of certain classrooms from the "total number of classrooms provided" at comparison group District schools. In developing the three-step process discussed above, the Supreme Court explained:

"It is thus clear that the section 1859.31 inventory does not by itself provide a classroom count that furthers Proposition 39's goal of ensuring 'reasonably equivalent' facilities for charter and noncharter public schools. (§ 47614, subd. (b).) In approaching this issue, the District contends that the classroom inventory requirement of section 11969.3(b)(1) must be read in light of the regulation's first sentence, which says: 'Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools.' According to the District, only classrooms in the inventory that are 'provided to' noncharter public school K-12 students in the District must be counted. On this view, unbuilt classrooms, classrooms already used by charter schools, and classrooms dedicated to preschool, adult education, or other uses besides K-12 education are not 'provided to' such K-12 students and thus need not be counted in determining the ADA/classroom ratio under section 11969.3(b)(1). ¶ We agree with this reading of section 11969.3(b)(1). Although section 11969.3(b)(1) says '[t]he number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to ...section 1859.31...', the sentence of 11969.3(b)(1) that specifically addresses the allocation of facilities to charter schools refers to 'those [classrooms] provided to students in the school district attending comparison group schools.' This language is naturally read to mean that the classrooms to be counted in deriving the ADA/classroom ratio for allocating facilities to charter schools comprise a subset of the classrooms counted in the section 1859.31 inventory — namely, 'those provided to' noncharter K-12 public school students in the district. (§ 11969.3(b)(1).) As noted, if the classroom count were based solely on the section 1859.31 inventory, it would include various classrooms that should be excluded for purposes of ensuring reasonable equivalence in charter and noncharter public school facilities. Counting only 'those [classrooms] provided to' noncharter K-12 public school students in the district avoids this problem and, unlike the ad hoc adjustments proposed by CCSA, hews closely to the text of section 11969.3(b)(1)." (*Id.* at 1239-1240.)

In compliance with the holding of *CCSA v. LAUSD*, the Preliminary Proposal explains that the "total number of classrooms provided" at each of Charter School's comparison group schools is comprised of Total Standard Size Classrooms, adjusted to reflect those classrooms provided to non-charter public school graded K-12 students in the District. Unbuilt classrooms, classrooms already used by and/or identified for occupancy by charter school, out-of-service or unassigned classrooms, and classrooms dedicated to preschool, adult education, special education, school police, other uses besides graded K-12 education, and specialized classroom space and non-

teaching station space accounted for under California Code of Regulations, title 5, section 11969.3(b)(2) and (b)(3), are not included.

The District has received some objections regarding the exclusion of “unassigned” or “out-of-service” classrooms. Neither “out-of-service” nor “unassigned” classrooms are provided to noncharter K-12 public school students in the District and were, therefore, properly excluded.

Some objections also claimed that the District improperly excluded small classrooms from the “classrooms provided” calculation. This is incorrect. In nearly all circumstances, small classrooms are not provided as exclusive use classrooms space to District students in comparison group schools. In those few circumstances where small classrooms are used as exclusive use classroom space by students at a comparison group school, they were accounted for in the “classrooms provided” calculation. In order to fairly account for the use of these small classrooms, District staff determined the number of standard size classrooms that would be equivalent to the number of small classrooms being exclusively used at the comparison group school, and included that number of standard size classrooms in the “classrooms provided” calculation. To the extent the small classrooms are being used as shared specialized classroom space or non-teaching station space, those spaces are accounted for under California Code of Regulations, title 5, section 11969.3(b)(2) and (b)(3), and were not included.

Some objections also claimed the District excluded Transitional Kindergarten (“TK”) classrooms from the “classrooms provided” calculation. This is incorrect. TK classrooms were included in the calculation of “classrooms provided” to students attending comparison group schools. Classrooms used for “TK Expansion” were properly excluded as this is a new program for low income preschool children.

Additionally, the District has received objections to the exclusion of certain spaces, such as itinerant rooms or science laboratory spaces from the “classrooms provided” calculation. Both itinerant rooms and certain science laboratory spaces that are not provided to District students at comparison group schools as exclusive use classroom space and are accounted for pursuant to California Code of Regulations, title 5, section 11969.3(b)(2) and (b)(3), and were not included.

Finally, certain charter schools have objected claiming that when applying the classrooms to ADA ratio to its ADA projection, if the resulting teaching station allocation is a fractional number, it must always be rounded up. As the District cannot exclusively allocate a portion of a classroom to Charter School, in order to fairly allocate reasonably equivalent space to charter schools, the District rounded all sums (.5 and above were rounded up, and under .5 were rounded down). If the District were always required to round up as Charter School contends, then charter school students would always enjoy a more favorable classrooms to ADA ratio than District students attending comparison group schools. This would not result in sharing facilities fairly or accommodating charter school students in facilities with reasonably equivalent conditions.

Furthermore, after the Supreme Court’s remand to the trial court in *CCSA v. LAUSD*, CCSA sought an order from the trial court declaring that the District’s classroom allocation to charter school in the 2016-17 school year violated Proposition 39 and the Supreme Court’s ruling. Although

CCSA proffered the identical arguments Charter School makes here, the trial court recently determined that CCSA was unable to show that the District was in violation any aspect of its Proposition 39 compliance obligations, including its compliance with section 11969.3, subdivision (b)(1). Based on the foregoing, the District has fairly and properly allocated exclusive use teaching stations to Charter School.

**2. Teaching Stations, Specialized Classroom Space, and Non-Teaching Station Space Offered for the Exclusive Use of the Charter School:**

Exhibit "A" to the Use Agreement(s) specifically identifies each of the teaching stations offered for Charter School's exclusive use.

Charter School students will have access to computers in its exclusive use space reasonably equivalent to that of District students in Charter School's comparison group schools.

**3. Teaching Stations, Specialized Classroom Space, and Non-Teaching Station Space to which the Charter School is to be Provided Access on a Shared Basis:**

The Shared Use Agreement attached as Exhibit "A" to the Use Agreement(s) specifically identifies the teaching stations, specialized classroom space, and non-teaching space offered for Charter School's use on a shared basis.

Charter School will be provided access on a shared basis to all space listed in the Shared Use Agreement attached as Exhibit "A" to the Use Agreement(s). Additionally, to the extent not listed on Exhibit "A" and to the extent that such space exists on the offered District school campus, Charter School is to be provided shared access to field and black top space, storage space, a nurse's station, and parking space.

The District will provide Charter School's secondary students (grades 7-12), if any, with shared use of science laboratory classroom space to the extent it does not prohibit: (1) the District school from meeting the education requirements mandated by Education Code sections 51220, 51225.3 subdivisions (a)(1)(C), and 51228 subdivision (a); and (2) does not prohibit the students attending the District school from meeting the minimum graduation requirements of 10 credits of biological science and 10 credits of physical science and the minimum college admission requirements of two years of lab sciences for Universities of California and California State Universities and three to four years of lab sciences for private colleges. In order to comply with these state mandates and minimum educational requirements, pursuant to California Code of Regulations, title 5, section 11969.9, subdivision (f), the District provides access to science laboratory classroom space subject to the conditions stated in the conditions set forth in the Shared Use Agreement to the Use Agreement. All conditions set forth in the Use Agreement are incorporated herein by this reference.

The District preliminarily proposed to serve as the School Food Authority ("SFA") administering the official National School Lunch and School Breakfast Programs and all other associated programs. The District's Food Services Division will prepare and serve meals that meet the National School Lunch and School Breakfast Program and After School Snack Program meal requirements as established by the United States Department of Agriculture ("USDA") to Charter School's in-district students. Charter School's in-district students will pay the District the same per meal co-pay (i.e., the student's responsibility for paying) that the District's students pay, as follows:

Grade Level	Breakfast (\$)*			Lunch (\$)			Snack (\$)***			Supper (\$)***		
	Free	Red.	Full Priced	Free	Red.	Full Priced	Free	Red.	Full Priced	Free	Red.	Full Priced
K – 8	0.00	.30	1.00	0.00	.40	1.50	0.00	.50	1.15	0.00	0.00	0.00
9 – 12	0.00	.30	1.50	0.00	.40	2.00	0.00	.50	1.15	0.00	0.00	0.00

\* For schools participating in "Breakfast In The Classroom (BIC)", the co-pay is waived.

\*\* Schools in Non-Area Eligible (less than 50% Free and Reduced Eligibility) are subject to a co-payment by each reduced and full-price eligible student.

\*\*\* Supper Programs are only hosted at Area Eligible Schools (50% and over Free and Reduced Eligibility). If a Non-Area Eligible school chooses to host a Supper Program, a fee will be charged at \$1.50 per meal.

**NOTE:** At schools that participate in Provision 2 Programs, student co-payments are waived at all eligibility levels.

Charter School's in-district students may be eligible for free and reduced meals, and the District will collect applicable reimbursement amounts. Charter School will then be charged the balance of actual costs the District incurs for each meal it provides to Charter School's in-district students at the proposed site, less (1) co-payments from Charter School's in-district students to the District and (2) free, reduced and full-price meal reimbursements for Charter School's eligible in-district students collected by the District. The actual anticipated costs the District will incur for each meal to Charter School's in-district students it provides at the proposed site will be unique to the circumstances of each charter school and proposed District location. Determination of actual meal costs takes various factors into account, including, but not limited to, whether meals are prepared on- or off-site, the total number of meals served, staffing needs, and the number of students who are eligible for free, reduced and full-price meals.

Charter School's per meal charge will not exceed the amounts set forth below. However, Charter School's per meal charge may potentially decrease, depending on several factors presently

beyond the District's control that remain unresolved. These factors include, but are not limited to, final determinations by the federal and state governments regarding assistance levels for monetary and commodities subsidies, and free and reduced price meal reimbursements. These external factors should be resolved, and a determination of whether Charter School's per meal charge will decrease should be known, by the end of July 2018 at which time the proposed Food Services Agreement could be amended, as appropriate. While Charter School's actual payment obligation may be less, the District presently anticipates that Charter School's "not-to-exceed" per meal charge (after student co-payments and free, reduced and full-price meal reimbursements are applied) will be as follows:

<b>Grade level</b>	<b>Breakfast (\$)*</b>	<b>Lunch (\$)</b>	<b>Snack (\$)***</b>	<b>Supper (\$)***</b>
K – 5	1.70	2.15	1.15	1.25
6 – 8	3.22	3.81	1.15	1.25
9 – 12	3.66	4.75	1.15	1.25

**NOTE:** Charter School's per meal charges listed above are the District's anticipated "not-to-exceed" costs, and are based upon current meal averages with applicable increase in costs. Charges are subject to change.

\* For schools participating in "Breakfast In The Classroom (BIC)", the co-pay is waived.

\*\* Schools in Non-Area Eligible (less than 50% Free and Reduced Eligibility) are subject to a co-payment by each reduced and full-price eligible student.

\*\*\* Supper Programs are only hosted at Area Eligible Schools (50% and over Free and Reduced Eligibility). If a Non-Area Eligible school chooses to host a Supper Program, a fee will be charged at \$1.50 per meal.

**NOTE:** At schools that participate in Provision 2 Programs, student co-payments are waived at all eligibility levels.

This payment structure is the same as the District's process, whereby the District pays the actual costs for each meal provided to District students, less co-payments from District students and free, reduced and full-priced meal reimbursements. Charter School will be billed monthly for the meal services costs in addition to the estimated Pro-Rata Share Charge identified above. Please see the enclosed, which identifies the District's terms and conditions in the draft Food Services Agreement for Charter School ("Food Services Agreement"). All terms and conditions set forth in the draft Food Services Agreement are hereby incorporated herein by reference.

Pursuant to California Code of Regulations, title 5, section 11969.9, subdivision (g), Charter School was required to indicate by March 1st whether it was agreeable to the District's proposal in its written response to the District's Preliminary Proposal.

**NOTE:** Charter School was solely responsible for immediately taking all necessary steps to ensure it timely designated the District as Charter School's SFA by the applicable regulatory deadline(s). The District understands that this deadline was March 30, 2018.

If Charter School declined the District's proposal to provide Charter School's in-District students with meal services (breakfast, lunch, snack and supper) in the same manner as they are provided to all students attending District schools, Charter School will be solely responsible for all costs associated with providing its own meal services and all accommodations needed for those services within its allocated space. **NOTE:** Charter School shall not provide its meal services in a manner which would violate the District or Charter School's compliance with any federal, state, and/or local laws, regulations and/or guidelines. Charter School's meal services must also be provided in compliance with all District policies and procedures, including, but not limited to, those set forth by the Office of Environmental Health and Safety. Charter School's provision of meal services shall not violate the safe school plan of the school site(s).

**4. Arrangements for Shared Space:**

Charter School will be provided access to shared space as set forth in the Shared Use Agreement attached as Exhibit "A" to the Use Agreement. The District has identified the maximum shared use allocation entitlements for the Charter School as provided by law, and the days of the week and times of the day when it proposes that Charter School will have use of the shared use spaces. The District will confer in good faith with Charter School in an effort to reach mutually acceptable schedules for the use of the shared space. Please note, this establishes a baseline for sharing the co-located campus fairly as required under Proposition 39, and it is likely to change following good faith discussions and mutual agreement of both co-located schools' principals if Charter School accepts the space offered. District staff will make every reasonable effort to accommodate the scheduling priorities of both co-located schools in the shared use spaces so that the educational programs of the charter school and District school are least disrupted. **Note:** Certain changes to the District School's schedule, including but not limited to changes to the lunch and/or recess schedule or changes to the length of time for recess and/or lunch, may require approval of the District School's Local School Leadership Council prior to the implementation of such change.

**5. The In-District Classroom ADA Assumptions upon which the Allocation is Based:**

The District reserves the right to seek a monetary reimbursement amount from Charter School for over-allocated space pursuant California Code of Regulations, title 5, section 11969.8. Space is to be considered over-allocated if: (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based; and, (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of the projected in-district classroom ADA, whichever is greater. (Cal. Code Regs., tit. 5, § 11969.8, subd. (a).) California Code of Regulations, title 5, section 11969.8, subdivision (a), also specifies the regulatory formula for determining the reimbursement amount owed by a charter school to a school district if space has been over allocated. Caution: If Charter School is over-allocated space, the reimbursement amount owed to the District could be significant. Refer to Section 11969.8 for additional details.

Pursuant to California Code of Regulations, title 5, section 11969.9 subdivision (I), Charter School is required to report its actual ADA to the District via [prop39@lausd.net](mailto:prop39@lausd.net) every time that Charter School reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. Charter School must maintain records documenting the data contained in the reports and make the records available upon the District's request.

**6. Differences between in-District Classroom ADA assumption on which the Allocation is Based and those submitted by Charter School pursuant to California Code of Regulations, title 5, section 11969.9, subdivision (e):**

None.

**7. The Specific Location of the Space:**

The specific location of the space is identified in the Fundamental Provisions of the Use Agreement(s) attached hereto.

**8. All Conditions Pertaining to the Space:**

Please see the attached Use Agreement(s).

The Charter School's governing board must approve the final Use Agreement(s) prior to occupancy. The approval must be evidenced by a resolution that identifies the individual authorized to execute the Use Agreement and execution of the Use Agreement by the authorized individual. All conditions set forth in the enclosed draft Use Agreement are incorporated herein by this reference.

**9. The Pro Rata Share Amount:**

The Pro Rata Share Charge for the 2018-2019 school year is based on the per square foot amount of the total exclusive and proportional shared use space as well as the proportional share of that space needed for the overall operation of the campus.

Please see Exhibit "B" to the Use Agreement(s) attached hereto and incorporated herein by this reference. Exhibit "B" to the Use Agreement(s) states the Pro Rata Share Charge for Charter School.

The Pro Rata Share Charge will be due to the District on a monthly basis in amounts equal to one twelfth of the total Pro Rata Share Charge for the applicable year. The Pro Rata Share Charge will be payable by the Charter School to the District and delivered to the Director of Non-Academic Facilities Planning by the 1st day of each month. If Charter School fails to either make timely payment or deposit disputed payments into an escrow account with an escrow company authorized to do business in the state of California or as otherwise mutually agreed between the parties and provide timely notice of such to the District, the District shall provide Charter School with a notice of non-payment and Charter School shall have (10) ten business days from the date of receipt of the notice to respond. If Charter School does not either make payment or dispute payment in accordance with section 4.3 of the Use Agreement, Charter School authorizes and the District shall have the right, but not the obligation, to deduct the outstanding payment amount from the Charter School's Revenue account. Charter School shall have the option to request the District to deduct Charter School's Pro Rata Share Charge from the Charter School's Revenue account.

In accordance with California Code of Regulations, title 5, section 11969.9, subdivision (i) and the intent expressed by the California Department of Education, Charter School **will be obligated to pay the entirety of the Pro Rata Share Charge** identified herein should it accept the offered space.

**10. The Payment Schedule for the Pro Rata Share Amount:**

Please see the payment schedule in the Use Agreement(s) attached hereto and incorporated herein by this reference.

If your facilities needs have changed since the submission of your request, please let us know at your earliest convenience so we may accurately allocate facilities offers. Should you have any questions or comments regarding this Final Notification of Space, please contact the District via e-mail at [prop39@lausd.net](mailto:prop39@lausd.net). Please **DO NOT** contact the offered District school site directly.

March 30, 2018

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Sincerely,

A handwritten signature in black ink that reads "Vivian Ekchian". The signature is written in a cursive, flowing style.

Vivian Ekchian  
Interim Superintendent

Attachments

C: David Holmquist  
Dr. Frances Gipson  
José Cole-Gutiérrez  
Sean Jernigan

## FUNDAMENTAL PROVISIONS

### SINGLE YEAR CO-LOCATION USE AGREEMENT

The following fundamental provisions are incorporated into the Single-Year Co-Location Use Agreement ("Agreement"). The provisions shall have the following meanings throughout the Use Agreement.

(a) Property Owner:	Los Angeles Unified School District ("LAUSD" or "District"), a unified school district existing under the laws of the State of California.
(b) Occupant:	<b>Excelencia Charter Academy</b> operating that charter school known as <b>Excelencia Charter Academy</b> ("Charter School") a California Charter School.
(c) School Site:	The Charter School shall be located on the following District School Site in accordance with the terms of this Facilities Use Agreement: <b>Sunrise Elementary</b> ("School Site").
(d) School Site use:	The Charter School shall use the School Site as a public school providing public education to its charter students in accordance with its Charter Petition. The Charter School shall have shared use of the School Site to the extent mutually agreed upon by the parties as set forth in the shared use exhibit attached hereto.
(e) School Year:	This Agreement provides use rights for the <b>2018-2019</b> school year.
(f) Date of Occupancy:	The Charter School's occupancy shall begin ten (10) working days prior to the first day of instruction as identified in the Charter School's "Facilities Request" for the <b>2018-2019</b> school year.
(g) Term:	The Term of this Agreement shall expire on <b>June 30, 2019</b> .
(h) Pro Rata Share Charge:	The Pro Rata Share Charge for the Charter School's use of the School Site shall be as outlined in Article 4 section 4.1. See Exhibit B for Pro Rata Share Charge for the School Year.
(i) Charter School's Address for Notices:	Excelencia Charter Academy ATTN: Ruben Alonzo, Head of School 3221 W. Temple St., Apt. 218 Los Angeles, CA 90026 Phone No.: (213) 880-3904 Email Address: ralonzo@buildingexcellentschools.org

With a copy to:	<p>_____</p> <p>_____</p> <p>ATTN: _____</p> <p>Phone No.: _____</p> <p>Facsimile No.: _____</p> <p>Email Address: _____</p>
(i) LAUSD's Address for Notices:	<p>Los Angeles Unified School District  333 South Beaudry Avenue  Los Angeles, California 90017  ATTN: Director of Non-Academic Facilities Planning  Phone No.: 213-241-6785  Facsimile No.: 213-241-6784  Email Address: <a href="mailto:yekaterina.boyajian@lausd.net">yekaterina.boyajian@lausd.net</a></p>
With a copy to:	<p>Los Angeles Unified School District  333 South Beaudry Avenue  Los Angeles, California 90017  ATTN: Director, Charter Schools  Phone No.: 213-241-0399  Facsimile No.: 213-241-2054  Email Address: <a href="mailto:jose.cole-gutierrez@lausd.net">jose.cole-gutierrez@lausd.net</a></p>

**SINGLE YEAR CO-LOCATION  
CHARTER SCHOOL FACILITIES USE AGREEMENT**

BY AND BETWEEN

**LOS ANGELES UNIFIED SCHOOL DISTRICT,**  
a Unified School District duly organized and existing under the laws  
of the State of California,

as Property Owner,

AND  
**Excelencia Charter Academy** OPERATING THAT CHARTER SCHOOL KNOWN AS  
**Excelencia Charter Academy** ("CHARTER SCHOOL") A CALIFORNIA CHARTER  
SCHOOL.

April 1, 2018

## SINGLE-YEAR CO-LOCATION USE AGREEMENT

This Single-Year Co-Location Charter School Facilities Use Agreement (this "Agreement") is made and entered into as of the last date of the full execution of this Agreement (the "Effective Date"), by and between the Los Angeles Unified School District, a school district duly organized and existing under the laws of the State of California ("LAUSD" or "District"), and **Excelencia Charter Academy** operating that charter school known as **Excelencia Charter Academy** ("Charter School") a California Charter School (collectively referred to herein as the "Parties") with reference to the following:

### RECITALS

WHEREAS, LAUSD owns certain real property and facilities held in trust for the State of California to benefit all public school children residing in District's boundaries;

WHEREAS, Charter School is a charter school operating under the provisions of the Charter Schools Act of 1992, Education Code section 47600, *et seq.*, and providing public school instruction to school children residing in the District's boundaries;

WHEREAS, pursuant to Proposition 39 (Ed. Code section 47614) ("Prop. 39") and the State Board of Education's implementing regulations (Title 5, Section 11969.1 – 11969.9) ("Implementing Regulations") (Ed. Code section 47614 and the Implementing Regulations are collectively referred to as "Prop. 39") as they may be amended by the State Board of Education from time to time, the District has certain obligations to provide reasonably equivalent school facilities to charter schools that are providing public school instruction to school children residing in the District's boundaries;

WHEREAS, Charter School has made a timely request for facilities in accordance with Prop. 39;

WHEREAS, LAUSD and Charter School wish to set forth the terms and conditions on which Charter School shall have the right to occupy the School Site for purposes of operating a school, as well as the responsibilities of Charter School with respect to the use and operation thereof, and the rights and responsibilities of LAUSD as the owner of certain real property to be used and the improvements thereon.

NOW, THEREFORE, for good consideration had and received, and the mutual covenants and obligations contained herein, LAUSD and Charter School hereby agree as follows:

### ARTICLE 1. GENERAL TERMS

1.1 Definitions. Capitalized words and phrases used and not otherwise defined elsewhere in this Agreement shall have the following meanings:

(a) "Applicable Law" means and refers to all present and future, foreseeable and unforeseeable, applicable laws (including, without limitation, the California Education Code, the California Public Contract Code, the California Building Standards Law and any requirements of

the California Division of State Architect), ordinances, orders (including consent decrees), rules and regulations, and requirements of all federal, state, county and municipal government, courts, departments, commissions, boards and offices, and any other governmental body exercising jurisdiction over the School Site or exercising functions similar to those of any of the foregoing, foreseen or unforeseen. The Parties recognize that the laws applicable to the Charter School and the District may vary.

(b) "Environmental Laws" means and refers to all federal, state and local laws, ordinances, court orders and administrative directives, rules and regulations now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Clean Water Act, 33 U.S.C. §§ 1251, et seq.; the Hazardous Substance Account Act, California Health & Safety Code §§ 25300, et seq.; the Hazardous Waste Control Law, California Health & Safety Code §§ 25100, et seq.; the Medical Waste Management Act, California Health & Safety Code §§ 15015, et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §§ 13000, et seq.; and California Education Code §§ 17210, et seq., and California Code of Regulations, Title 5, §§ 14010, et seq.

(c) "Hazardous Materials" shall mean any substance or material that is described as a toxic or hazardous substance, explosive material, radioactive substance, waste or material, or a pollutant or contaminant or infectious waste, or words of similar import, in any of the Environmental Laws, and includes but is not limited to, asbestos, petroleum or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive matter, medical waste, and chemicals which may cause cancer or reproductive toxicity.

(d) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing, including continuing migration, into the environment of Hazardous Material into or through soil, air, surface water or groundwater.

(e) "District Real Property" shall mean the real property upon which the School Site is located.

(f) "District Premises" shall mean the facilities and other improvements located on the District Real Property together with the Real Property.

(g) "Charter School Premises" shall mean that portion of the District Premises that is designated to the Charter School's exclusive use as outlined in this Agreement.

(h) "Charter School Shared Premises" shall mean that portion of the District Premises that is shared with another District school or charter school. The Charter School Shared Premises will be mutually determined by the Charter School and LAUSD in advance by selecting

from a menu of possible shared space on the District Premises. The Charter School's Shared Space shall be attached to this Agreement as Exhibit A.

(i) "Charter School Owned Premises" shall mean facilities and other improvements together with any real property that is owned by the Charter School.

(j) "Deferred Maintenance" shall mean facilities repair or replacement projects as described in Education Code section 17582(a) or additionally approved by the State Allocation Board; and further detailed by Office of Public School Construction Deferred Maintenance Program Handbook, as updated from time to time. Those projects include, but are not limited to, work necessary to restore or replace deteriorated or damaged building systems such as plumbing, heating, air conditioning, electrical, roofing, flooring, and wall systems. The exterior and interior painting of school buildings, asphalt paving, the inspection, sampling and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials, the control, management, and removal of lead-containing materials, or such other items as may be approved by the Board, to such condition that the school buildings may be effectively utilized for their designated purposes.

1.2 Statutory References and Exhibits. The specific statutory references in this Agreement are to the Statutes and Regulations of the State of California unless otherwise specified. All Exhibits and Attachments are deemed fully incorporated into this Agreement.

## ARTICLE 2. FACILITIES, FURNISHINGS AND EQUIPMENT

2.1 Exclusive Use. LAUSD hereby grants to Charter School the exclusive use of that portion of the District Premises as fully described and outlined in Exhibit A.

2.2 Shared Use. LAUSD hereby grants to Charter School the shared use of that portion of the District Premises as fully described and outlined in Exhibit A.

2.3 Delivery of Charter School Premises. Unless the Charter School is already in possession of the Charter School Premises as mutually agreed by the District and the Charter School, the District agrees to have the Charter School Premises furnished, equipped and available for occupancy by the Charter School at least 10 business days prior to the commencement of the first day of instruction in LAUSD's regular school year for the traditional school calendar.

2.4 Furnishings and Equipment. LAUSD shall provide furnishings and equipment to the Charter School. These furnishings and equipment shall remain the property of LAUSD. The furnishings and equipment provided shall be equivalent to those furnishings and equipment provided in the comparison group of schools in accordance with 5 C.C.R. Section 11969.2. All furnishings and equipment located at the Charter School Premises shall be the property of LAUSD unless the charter school has developed an inventory of the furnishings and equipment that it has purchased for use on the Charter School Premises. The charter school's property will be properly inventoried and supported by back-up documentation, such as receipts of purchase or other acceptable form of documentation.

2.5 Telecommunications. The District Premises are wired for telephone and computer data connectivity. The responsibility to provide all communications equipment, excluding phones, computer and related hardware, software, and all required services, shall be the responsibility of the Charter School.

2.6 Title to District Premises. Charter School understands that this Use Agreement shall provide Charter School with the right to occupy and use the Charter School Premises and Charter School Shared Premises as outlined in this Agreement and that Charter School represents and warrants that Charter School shall not have or assert any ownership right, title or interest to the District Premises based upon its status or possession, occupancy and use of the District Premises.

### ARTICLE 3. TERM

3.1 Agreement Term. The term of this Agreement ("Term") shall commence on the Effective Date and shall expire on the date set forth in (g) of the Fundamental Provisions, unless otherwise agreed between the parties as outlined in an agreement for summer occupancy, as provided in section 3.2 below, or unless terminated as outlined in this Agreement.

3.2 Summer Occupancy. LAUSD and Charter School may agree to the Charter School's access to District Premises for a period of time in addition to the term described in section 3.1 above, as follows:

(a) At the time of its initial annual application for facilities, submitted to LAUSD not later than the November 1 deadline, Charter School shall provide LAUSD with its request to occupy District Premises for purposes of conducting a summer session of its educational program, and an approximation of its desired classroom needs and need for shared space.

(b) By May 1, Charter School will provide LAUSD with a projection of enrollment and an exact accounting of the classrooms and shared space needed.

(c) By June 1, LAUSD will provide Charter School with notification of its assigned classroom space and shared space. LAUSD shall make reasonable efforts to provide Charter School with the space Charter School occupied during the term specified in section 3.1 above; provided, however, that if LAUSD assigns space to Charter School that differs from the space that it occupied, it will provide Charter School with such notice at this time. Charter School and LAUSD will jointly sign the notification acknowledging agreement to the summer occupancy.

(d) If Charter School does not occupy the planned space during the term of its requested occupancy, LAUSD shall have the right to charge charter school for over-allocated space pursuant to the formula set forth in Prop 39 for over-allocated space, pro rated monthly, provided however that the notification provisions of Title 5 CCR section 11969.8 shall not apply.

(e) Charter School understands that custodial staff is assigned to day shifts during the summer to perform deep cleaning of the campus, and that they will have to pay custodial overtime to perform the daily clean-up of summer school activities, just as the District school would have to out of their local control funding budget if they were to host summer school as well.

#### ARTICLE 4. CHARGES FOR FACILITIES USE

4.1 Definition of Pro Rata Share Charge: The Parties acknowledge and agree that LAUSD may not, pursuant to California law, charge Charter School rent in exchange for its use of the District Premises; *provided, however*, that LAUSD shall have the right to charge the Charter School an annual fee for use of the District Premises consistent with Education Code section 47614(b) (the "Pro Rata Share Charge"). In exchange for payment of the Pro Rata Share Charge by Charter School, LAUSD shall perform Deferred Maintenance upon the District Premises for the benefit of Charter School. In charging the Pro Rata Share Charge the District shall not charge the higher oversight fee under Education Code section 47613.

4.2 Calculation of Pro Rata Share Charge. The Pro Rata Share Charge shall be calculated in accordance with Title 5 CCR section 11969.7. When determining Charter School's facilities costs, Charter School shall only be responsible for facilities payments for those types of facilities spaces used in the District's calculation of the Pro Rata Share Charge. If the Charter School shares the District Premises, the Charter School shall only be charged the Pro Rata Share Charge on the Charter School Shared Premises on a percentage of its annual usage of the shared premises. The Pro Rata Share Charge shall be determined by calculating the actual square footage of the Charter School's Premises and the percentage of its usage of Charter School Shared Premises. The Charter School will not be charged a Pro Rata Share Charge for District Premises that it does not use, but may be charged a proportional Pro Rata Share Charge for shared space needed for the overall operation of the campus as set forth in Title 5 CCR section 11969.7(c). The methodology and the Pro Rata Share Charge for the first school year of the Term of this Agreement is attached as Exhibit B.

4.3 Disputes as to Payments. If Charter School disputes all or any part of the Pro Rata Share Charge, Charter School shall pay the undisputed portion of the charge per the terms provided in section 4.4 below and shall deposit the disputed amount into escrow with an escrow company authorized to do business in the state of California or otherwise mutually agreed between the parties, at the Charter School's expense. The parties agree to first attempt to resolve such disputes pursuant to the dispute resolution provisions in Section 22.1 of this Use Agreement. The disputed amount shall remain in escrow until the payment dispute is resolved either through the dispute resolution process or by a final judgment from a court of competent jurisdiction. Any interest accrued on the escrowed funds shall be allocated to the parties proportionally on the same percentage allocation as the disputed payment amount.

In such instance where Charter School disputes its obligations to pay all or part of the Pro Rata Share Charge, Charter School shall provide LAUSD with a letter or notice entitled "Payment Under Protest" stating that Charter School plans to dispute such payment and proof of deposit of funds into escrow provided by the escrow company. The Payment Under Protest notice shall be provided to LAUSD by the date that payment would have been due under section 4.4 or 5.2, as applicable. The Charter School shall provide further letter to LAUSD specifying in detail why

Charter School is not required to pay all or part of such amount within thirty (30) days following the payment due date.

4.4 Assessment Schedule. The Pro Rata Share Charge will be due to LAUSD on a monthly basis in amounts equal to one twelfth of the total Pro Rata Share Charge for the applicable year. The Pro Rata Share Charge will be payable by the Charter School to LAUSD to the Director of LAUSD's Leasing and Space Utilization Department by the 1st day of each month. If Charter School fails to either make timely payment or deposit disputed payments into escrow with an escrow company authorized to do business in the state of California or otherwise mutually agreed between the parties and provide timely notice to LAUSD, LAUSD shall provide Charter School with a notice of non-payment and Charter School shall have (10) ten business days from the date of receipt of the notice to respond. If Charter School does not either make payment or dispute payment per section 4.3 above, Charter School authorizes and LAUSD shall have the right, but not the obligation, to deduct the outstanding payment amount from the Charter School's Revenue account.

Notwithstanding anything else in this section 4.4 above, Charter School shall have the option to request LAUSD to deduct Charter School's Pro Rata Share Charge from the Charter School's Revenue account.

4.5 Oversight Fee. If District collects a Pro Rata Share Charge, the District may only charge an oversight fee in accordance with Education Code section 47613, which shall not exceed one percent (1%) of the "revenue of the charter school" (as defined in subdivision (f) of Section 47613). If District does not collect a Pro Rata Share Charge, and does not otherwise charge a fee that may be deemed rent, the District may charge an oversight fee in accordance with Education Code section 47613, which shall not exceed three percent (3%) of the "revenue of the charter school." Oversight fees or Pro Rata Share Charges shall be altered by the parties in accordance with any change in applicable law during the term of this Agreement. Charter School shall pay the oversight fee in accordance with the requirements for the payment of the Pro Rata Share as provided in Section 4.4 above.

## ARTICLE 5. FEE FOR SERVICE CHARGES

5.1 Payment for Services. In addition to the services provided by LAUSD under this Agreement, Charter School may request and LAUSD may, from time to time, provide facilities-related services to Charter School in addition to the services provided in this Agreement, upon mutual agreement by the parties, and shall charge Charter School for such services ("Fee-For-Service Charges"). Any recurring Fee-For-Service Charges shall be payable by Charter School on a monthly basis as set forth in Section 4.4 above. One-time Fee-For-Service Charges, will be charged to Charter School on a monthly basis, and will be accompanied by an invoice that reflects the nature of the services delivered, the rate charged, and the degree of completion. A copy of any applicable LAUSD order form or job ticket shall also be enclosed with the invoice. To the extent that Charter School has requested services for which a flat monthly fee is charged, such Fee-For-Service-Charges shall be prorated for any partial month. These Fee-For-Service Charges will not be deducted by LAUSD from the Charter School's Revenue account nor offset against any monies owing to the Charter School.

5.2 Timely Payment. Charter School will pay any Fee-For-Service Charges by check or cash within twenty (20) days following the receipt of the invoice. If Charter School fails to pay the fee-for-service amounts, the unpaid amounts shall bear interest at the lesser of: (i) the rate publicly announced from time to time by the largest (as measured by deposits) chartered bank operating in California, as its prime rate, reference rate or other similar benchmark rate, plus two percent (2%), or (ii) the maximum rate then allowed by law ("Interest Rate") from the date such amount is due until the date paid.

5.3 Timely Charges. The Parties agree that no amounts may be charged or disputed for services that have been delivered over a period that exceeds twelve (12) months, and that Charter School will have no obligation to pay any amounts charged pursuant to an order or request for services that is more than twelve (12) months old, regardless of whether the services have been delivered and/or completed.

5.4 Disputes as to Payments. If Charter School disputes all or any part of the Fee-for-Service Charges, Charter School shall pay the undisputed portion of the charge per the terms provided in section 5.1 and 5.2 above, and shall handle the disputed portion as set forth in section 4.3 above.

## ARTICLE 6. INSURANCE

6.1 Charter School's Insurance. Charter School, at Charter School's sole cost and expense, shall both obtain and keep in full force and effect, beginning on the Commencement Date and continuing until this Agreement terminates, the following insurance policies for the District Premises, or, in lieu of maintaining coverage through an insurance company, use a self-insurance mechanism that meets the following criteria:

(a) Liability Insurance. Commercial general liability insurance with respect to the District Premises and Charter School Owned Premises, if any, and the operations of or on behalf of Charter School in, on or about the District Premises, including but not limited to: bodily injury, sexual molestation coverage, automobile liability coverage (if Charter owns vehicles), product liability (if applicable), blanket contractual, broad form property damage liability coverage and host liquor liability in an amount not less than Five Million Dollars (\$5,000,000) in the aggregate, and excess liability coverage on a basis consistent with coverage for schools or a type similar to the School as required by LAUSD as a school district. Coverage shall be maintained with no Self-Insurance Retention above \$15,000 without the prior written approval of LAUSD. The policy shall be endorsed to name the Los Angeles Unified School District and the Board of Education of the City of Los Angeles as named additional insured and shall provide specifically that any insurance carried by the District which may be applicable to any claims or loss shall be deemed excess and the charter school's insurance primary, provided however, that District's insurance shall be primary for claims caused by the actions of third parties, except to the extent that the third party's actions arose as a result of the negligence, intentional disregard or malfeasance of the Charter School.

(b) Property Insurance. Property insurance against fire, vandalism, malicious mischief and such other additional perils as now are or hereafter may be included in a standard "All Risks" coverage, including sprinkler leakage, insuring all of Charter School's trade fixtures, furnishings, equipment, stock, loss of income or extra expense, and other items of personal property ("Charter's Property") in an amount not less than one hundred percent (100%) of replacement value. Such insurance shall contain: (i) coinsurance or contribution clauses, (ii) a replacement cost endorsement, and (iii) a waiver of subrogation in favor of LAUSD. With regard to such property insurance, LAUSD agrees that Charter School shall have the right to participate in insurance policies obtained by LAUSD where such policies are less expensive or otherwise more advantageous to Charter School than coverage otherwise available in the marketplace. Any such participation shall be in a separate written agreement. The Parties further acknowledge and agree that Charter School has no obligation hereunder to purchase earthquake coverage.

(c) Workers' Compensation, Employer Liability. Workers' compensation insurance in accordance with provisions of the California Labor Code adequate to protect the charter school from claims that may arise from its operations pursuant to the Workers' Compensation Act, and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000).

(d) Fidelity Bond. Fidelity bond coverage for all of Charter School's employees and who handle, process, or otherwise have responsibility for Charter School's funds, supplies, equipment or other assets. Minimum amount of coverage shall be \$250,000 per occurrence, with no self-insurance retention.

6.2 Insurance Policy Criteria. All policies of insurance required to be carried by Charter School shall be written by responsible insurance companies authorized to do business in the State of California, rated no less than the standard LAUSD requires for non-charter public schools [A.M. Best A-, VII or better]. Any such insurance required of Charter School hereunder may be furnished by Charter School under any blanket policy carried by it or under a separate policy therefor. A true and exact copy of each paid-up policy evidencing such insurance or a certificate of the insurer, certifying that such policy has been issued, providing the coverage required and containing the provisions specified herein, shall be delivered to LAUSD prior to the date Charter School is given the right to possession of the District Premises, and upon renewals, not less than thirty (30) days prior to the expiration of such coverage. In addition, LAUSD and the Board of Education of the City of Los Angeles shall be named as an additional insured on the liability policies and a loss payee on the property coverages for District Premises. LAUSD may, at any time and from time to time, upon reasonable notice to Charter School and at no cost to Charter School, inspect and/or copy any and all insurance policies required hereunder, and in no event shall the then-limits of any policy be considered as limiting the liability of Charter School under this Agreement.

6.3 Failure to Obtain Insurance. If Charter School fails to procure, maintain and/or pay for at the times and for the durations specified in this Agreement, the insurance required hereunder, or fails to carry insurance required by any Applicable Law, LAUSD may (but without obligation to do so), and with concurrent notice to Charter School, perform such obligations on behalf of Charter School, and the cost thereof, together with interest thereon at the Interest Rate from the

date of demand until paid, shall become due and payable as additional payment by Charter School to LAUSD.

6.4 Reimbursement. Charter School shall reimburse LAUSD for cost of the premiums paid by LAUSD for the insurance carried by LAUSD pursuant to the terms of section 6.3 herein, in accordance with section 5.2. Such amounts will be payable by check, and may not be deducted by LAUSD from Charter School's Revenue account.

6.5 District Insurance. During the Term of this Agreement, the District shall maintain insurance or shall self-insure against claims for injuries to persons or damages to property (real and personal, including the structures on the District Premises and any District-owned personal property) in amounts equal to that which would be in place if the District Premises were occupied by another school of the District. For services provided by the District to the Charter School, the District shall maintain responsibility for these services and such services shall be covered by the District's self-insurance or any insurance that the District may maintain.

## ARTICLE 7. USE OF PREMISES

7.1 Use. Charter School shall use the District Premises for the operation of a school serving school students consistent with the terms of the Charter School's charter, and incidental related uses, such as educational and extracurricular uses, with such use being subject to the terms of this Agreement and all Applicable Law.

7.2 Civic Center Use. Although Charter School shall have the exclusive use of the Charter School Premises, LAUSD, with the prior consent of Charter School, may agree to make the Charter School Premises available to members of the community in accordance with the provisions of the Civic Center Act (Education Code section 38131 et seq.). If Charter School authorizes access to Charter School Premises pursuant to Civic Center Act, Charter School assumes the risk of loss or damage to property as a result of that access.

LAUSD shall have the right to provide use of Charter School Shared Premises to members of the community in accordance with the provisions of the Civic Center Act (Education Code section 38131 et seq.); *provided, however*, that Charter School shall have first right of use of Charter School Shared Premises if Charter School has timely scheduled use of the Charter School Shared Premises with the local LAUSD school principal by September 15 for the period of November through February, January 15 for the period of March through June, and May 15 for the period of July through October or prior to LAUSD granting use access to a third party.

7.3 Compliance with Laws. The District is not aware of any defect in or condition of the District Premises that would prevent their use for the Charter School's purposes. The District has not received any notice of violation of statute, ordinance, regulation, order or holding from any state or federal agency with jurisdiction over the District Premises that calls into question the appropriateness or sufficiency of the District Premises for their intended purpose. The District discloses that the District Premises may not be in compliance with statutes, ordinances, regulations, orders or holdings that were subsequently enacted or issued after the construction of the District Premises and the District offered the Charter School Premises and Charter School

Shared Premises based upon the information Charter School disclosed in its Prop. 39 facilities request or otherwise disclosed to the District.

Charter School agrees to use and occupy the District Premises in accordance with all Applicable Law. LAUSD acknowledges that Charter School shall not be responsible for repairs, replacements, alterations, renovations or other modifications or improvements that may result from the District Premises' failure to comply with Applicable Laws unless legal non-compliance or the requirement to comply with current Applicable Laws is the result of an act or omission of Charter School. LAUSD agrees that Charter School shall not be liable for any harm, injury, or other liability resulting from the District Premises' failure to comply with Applicable Laws. Notwithstanding anything herein to the contrary, Charter School shall only be responsible for the District Premises' compliance with Environmental Laws, the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA) access rights to the extent Charter School makes any modifications or improvements to the District Premises. Charter School shall not be responsible for any and all environmental conditions which existed on, below, above or around the District Premises prior to the Charter School's occupancy of the District Premises or caused by LAUSD or its contractors, agents, employees, invitees, or representatives, or any third parties.

7.4 Compliance with Charter Petition. Charter School shall, at its sole cost and expense, promptly and at all times comply with the terms and provisions of the Charter School's charter, as it may be amended or renewed by LAUSD or its chartering agency. Notwithstanding the forgoing, if this Agreement conflicts with any provision in the Charter School's charter this Agreement shall supersede the charter.

7.5 Continuous Use. Charter School shall uninterruptedly operate a school at the District Premises during the Term of this Agreement.

7.6 Finger Printing. Each party shall be responsible for ensuring compliance with all applicable fingerprinting and criminal background investigation requirements described in the Education Code.

7.7 Shared Use. If the District Premises are shared with another District school or program or one or more other charter schools, the use of the Charter Schools Shared Premises shall occur in accordance with the Shared Use Agreement, attached hereto as Exhibit A. The additional Shared Use Agreement shall be negotiated in good faith and terms shall be mutually entered into between the Charter School and the LAUSD host school principal.

## ARTICLE 8. ALTERATIONS AND SIGNAGE

8.1 Alterations. During the Term of this Agreement, Charter School shall have no right to make alterations, additions, or improvements to the District Premises, which shall include modular classrooms, ("Alterations"), unless previously approved by LAUSD and in accordance with conditions set forth by LAUSD in the approval letter delivered by LAUSD or otherwise mutually agreed in writing. Charter School may submit a request to make Alterations to the

District Premises and LAUSD agrees to act upon a timely and complete request by Charter School within thirty (30) days. If LAUSD fails to provide a response to Charter School within thirty (30) days regarding any such timely and complete request the request shall be deemed approved. Any alterations, additions, or improvements must not cause the District Premises to be incompatible with the operation of a school within the public system of the City of Los Angeles, and must be made in compliance with all Applicable Laws and LAUSD policies. Unless agree otherwise in writing, the Charter School maintains its ownership rights in any Alterations and may be allowed to remove the same at termination of this Agreement and restore the property to the condition reasonably equivalent to that existing prior to Alteration at Charter School's expense.

8.2 Signage. Charter School may install signage at the District Premises including one sign at the Charter School's main entrance stating the charter school name and other pertinent information, a sign indicating the main office of the Charter School, and other directional signs as appropriate. The signage shall not require any Alterations to the District Premises in order to erect such signage. Such signage shall be in compliance with any District standards previously made available to Charter School and Charter School's receipt of any applicable permits and approvals required under any municipal or other governmental laws, ordinances, rules or regulations; provided, that in the event of any conflict between the District's standards and any applicable municipal or governmental permit and/or approval, the terms and conditions of the municipal or governmental permit and/or approval shall prevail. The Charter School may place additional signs on the property with prior LAUSD approval.

## ARTICLE 9. SURRENDER; END OF THE TERM

9.1 Surrender of District Premises. On the last day of the Term hereof, Charter School shall surrender to LAUSD the District Premises, vacant and in the same condition as when received or made, ordinary wear and tear excepted, free and clear of any liens or encumbrances. All Alterations made by or for Charter School, whether temporary or permanent in character, made either by LAUSD or Charter School, shall, unless otherwise agreed to by the District, be removed and the District Premises shall be surrendered to LAUSD upon expiration of the Term or termination of this Agreement and the property shall be restored to the condition existing prior to Alteration at the expense of Charter School. If any Alterations are made, at least thirty (30) days prior to the last day of the Term hereof, Charter School shall provide the District with its plan of removal and restoration, if and the District may require modifications to said plan to ensure that the premises are restored to substantially the same condition they were in prior to Charter School occupancy. By the last day of the Term, Charter School shall remove completely all of Charter School's personal property, including moveable furniture, trade fixtures, and equipment not attached to the District Premises, and repair all damage caused by such removal. Any of Charter School's personal property not so removed shall, with the exception of any modular classrooms purchased by Charter School, after written notification to the Charter School, at the option of LAUSD, automatically become the property of LAUSD upon the expiration or termination of this Agreement or 15 business days following written notification to the Charter School. Thereafter, LAUSD may retain or dispose of in any manner the personal property not so removed, without any notice or liability whatsoever to Charter School.

9.2 Compliance with Applicable Law . All removal of property is subject to Applicable Law, including any local permits and/or approval by the Division of State Architect of the State Department of General Services.

#### ARTICLE 10. HOLDING OVER

10.1 Holding Over. Charter School shall surrender possession of the District Premises immediately upon the expiration of the Term or earlier termination of this Agreement. Absent a written agreement to the contrary, Charter School will not be permitted to hold over possession of the District Premises after such expiration or earlier termination of the Term without the express written consent of LAUSD, which consent LAUSD may withhold in its sole and absolute discretion. Any holdover by Charter School shall constitute a breach of this Agreement by Charter School entitling LAUSD to pursue any and all remedies available at law and in equity, including without limitation consequential damages resulting therefrom.

During any hold over period, Charter School shall: (i) not occupy and use the premises during the hold over period except to remove its personal property and Alterations as it has coordinated with LAUSD; and (ii) authorize LAUSD to deduct \$100 per day (or any portion thereof) from charter school's monthly revenue account commencing on the sixth day of the hold over and said per day rate shall increase by 100% for each 15 day period thereafter; provided, however, that these hold over provisions shall not apply to those situations where Charter School previously made a timely and legally sufficient request under Prop. 39 for the school year to commence after the last day of the Term of this Agreement, LAUSD made a facilities offer and Charter School accepted, and there is a delay in the delivery of the facilities.

#### ARTICLE 11. LAUSD'S ACCESS AND OBLIGATIONS

11.1 Entry. LAUSD and its authorized representatives shall have the right, after forty-eight (48) hours prior written notice to Charter School, to enter the District Premises during normal business hours for the purpose of inspection and audit ("Inspection"); or to perform Deferred Maintenance in or on the District Premises pursuant to a request from Charter School or in accordance with the five year plan for Deferred Maintenance to be updated annually by LAUSD's Maintenance and Operations Branch in consultation with Charter School as set forth below. Nothing in this section shall prevent LAUSD from entering the District Premises to address an emergency upon the District Premises nor shall this provision restrict the LAUSD Charter Schools Division's authority to enter the District Premises without advanced notice to perform its general oversight responsibilities under the terms of Charter School's charter and applicable law. An "emergency" shall be defined to include circumstances that risk the health and safety of students, personnel or other persons on the District Premises, or circumstances that risk further imminent damage or destruction to the District Premises, or otherwise jeopardizes the operation of the District Premises including, but not limited to, the safety and sanitary condition of the District Premises.

11.2 Right to Perform. If Charter School fails to perform any covenant or condition to be performed by Charter School, LAUSD and its authorized representative shall have the right to

enter the District Premises during normal business hours for the purpose of performing such covenant or condition at LAUSD's option after ten (10) days written notice to and failure to perform by Charter School or to provide notice to LAUSD pursuant to section 16.1(b) of this Agreement. Charter School shall reimburse LAUSD, in accordance with Section 5.2 above, for all reasonable costs incurred in so performing. Any performance by LAUSD of Charter School's obligations shall not waive or cure such default. LAUSD may perform Charter School's defaulted obligations at Charter School's sole cost and expense.

11.3 Other. LAUSD shall have the right after forty-eight (48) hours prior written notice to Charter School to enter the District Premises at all reasonable times during usual business hours for the purpose of exhibiting the same to prospective purchasers or mortgagees or Charter Schools thereof.

11.4 Obligation to Inspect. On an annual basis, LAUSD's Maintenance and Operations Division will inspect the District Premises and deliver a copy of their inspection to the Charter School prior to commencement of its occupancy. It is understood and agreed by the Parties that LAUSD will bear the sole cost and responsibility for such inspection.

11.5 Deferred Maintenance Plan and Services. The Parties acknowledge and agree that LAUSD has certain obligations to deliver Deferred Maintenance to the District Premises in exchange for Charter School's Pro Rata Share Charge payments. In furtherance of its obligations, LAUSD shall maintain or cause to be maintained a "Deferred Maintenance Plan" for the District Premises. The Deferred Maintenance Plan shall include a schedule and description of Deferred Maintenance services to be delivered by LAUSD to Charter School to cover the Term of this Agreement; provided, however, that the parties acknowledge that there may not be any scheduled Deferred Maintenance services conducted during the term of this Agreement pursuant to LAUSD's five year plan. LAUSD shall deliver the Deferred Maintenance plan to Charter School before July 31 of the year of Charter School's occupancy. In addition to the services set forth in the Deferred Maintenance Plan, Charter School may request additional Deferred Maintenance services or accelerated service by telephoning LAUSD's Maintenance Operations Division. LAUSD shall, whenever feasible and without jeopardizing priority maintenance services to other schools, perform such additional or accelerated Deferred Maintenance services for Charter School. LAUSD acknowledges and agrees that it will carry out its responsibilities pursuant to this Section 11.5 in a good and workmanlike manner by properly qualified and licensed personnel and in accordance with all Applicable Law and LAUSD policies. LAUSD further acknowledges and agrees that all work it is obligated to perform pursuant to this Section 11.5 will be timely commenced and diligently prosecuted through completion.

11.6 Maintenance and Operations. Maintenance and Operations ("M&O") are broadly and generally defined as maintaining, repairing, and operating buildings (including the classrooms therein) and grounds efficiently on a regular basis, in a manner that promotes learning in a safe, clean, and healthy environment.

LAUSD shall solely be responsible for performing M&O on the Charter School Premises and the Charter School Shared Premises to maintain a good, safe and sanitary condition. Charter School shall not be responsible to perform any M&O services. LAUSD shall provide M&O services to the Charter School pursuant to LAUSD's M&O standards and policies and shall

provide these services at a service level similar to that provided to LAUSD public schools. Costs of M&O services are included in the Pro Rata share (now called LAUSD Facilities costs) which are paid by the Charter and determined by calculating the actual square footage of the Charter School's Premises and the percentage of Charter school's usage of the campus Shared Premises. The **Pro Rata Share** rate (LAUSD Facilities costs) and calculation methodology for the upcoming school year is attached hereto as Exhibit B. If the Charter School requests any additional facilities-related services that are above and beyond the service level provided to LAUSD public schools and which are not included in the M&O Pro-Rata Share (LAUSD Facilities costs) but have been agreed to be provided by LAUSD, costs of said services will be charged to the Charter School on a fee-for-service basis as set forth in Article 5 above. Fee-for-service charges shall be based upon rates that will be updated by LAUSD and circulated to the Charter School prior to July 31 and which shall be in effect through at least July 31 of the next year.

If and when the Charter School needs additional M&O services and these have been agreed to be provided by LAUSD, Charter School may request said services from LAUSD's Maintenance and Operations Branch by contacting the Complex Project Manager (CPM) for the School Site. The current CPM directory can be found at: <http://www.laschools.org/new-site/mo/contact-us>, along with an estimate for the requested services which will be delivered to Charter School within five (5) working days. Charter School shall report service calls to the School Site plant manager. Only in case of an M&O related emergency, Charter School may call the Service Line Hotline at (213) 745-1600 (M-F 6:30am – 5:00pm); For all M&O related emergencies outside of these hours, Charter School shall contact the LAUSD School Police Department at (213) 625-6631. To the extent a service is being delivered on a long-standing or continuous basis, it is understood and agreed by the Parties that such request for services must be renewed at the outset of each school year to be a validly enforceable obligation.

11.7 Pest Management. Notwithstanding anything provided in this Use Agreement, LAUSD shall provide the pest management for the District Premises in accordance with LAUSD's Integrated Pest Management Program policy upon written notice to Charter School of its intention to do so, the schedule upon which the pest management service will be provided and the estimated cost of such pest management service. Charter School shall pay the reasonable and customary fee or charge for said pest management service in accordance with Article 5 above.

## ARTICLE 12. LIENS

12.1 Liens. Charter School shall not suffer or permit any liens to stand against the District Premises, or any part thereof, by reason of any work, labor, services or materials done, supplied, or claimed to have been done or supplied. If as a result of work performed by or under the direction of the Charter School any such lien shall at any time be filed against the District Premises, the Charter School shall provide written notice thereof to the District as soon as notice of such lien or action comes to the knowledge of the Charter School. The Charter School shall cause the lien or action to be discharged of record within thirty (30) days after the date of the filing of same, either by payment, deposit or bond, unless a bond therefore is already in effect. Nothing in this Agreement shall be construed as consent or agreement by LAUSD to subject its estate in the District Premises or any estate that may be construed in favor charter school under this

agreement to liability under any mechanics' lien law or to any contractor or laborer for work performed.

12.2 Release of Liens. If any such liens are not so discharged within thirty (30) days after the date of the filing of the same, the District, without waiving its rights and remedies based on such breach by the Charter School whose dealings gave rise to the lien and without releasing the Charter School from any of its obligations, cause such liens to be released by any reasonable means, including payment in satisfaction of the claim giving rise to such lien. The Charter School shall pay to the District any sum paid by the District to remove such liens in accordance with section 5.2 above.

### ARTICLE 13. ALLOCATION OF RISK

13.1 Indemnity. LAUSD and Charter School hereby agree and acknowledge that the relationship between LAUSD and Charter School is solely a landlord/Charter School type relationship and not a principal/agent relationship. Charter School and LAUSD are acting on their own behalf in operating from the District Premises any school thereon (or any other purpose(s) thereupon) and neither is operating as an agent of the other.

To the fullest extent permitted by law, Charter School and LAUSD shall indemnify, defend and protect each other and their affiliates, successors and assigns, and their officers, directors, shareholders, board members, other members, partners, agents and employees (sometimes referred to as the "Indemnified Party" or sometimes collectively referred to as the "Indemnified Parties") and hold the Indemnified Parties harmless from any and all losses, costs, damages, expenses and liabilities (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from any cause (i) in Charter School's or LAUSD's use or occupancy of the District Premises, or (ii) in connection with Charter School's or LAUSD's operations at the District Premises, including without limiting the generality of the foregoing:

(a) any default by Charter School or LAUSD in the observance or performance of any of the terms, covenants or conditions of the Use Agreement;

(b) the use or occupancy of the District Premises by Charter School or LAUSD or any person claiming by, through or under Charter School or LAUSD, or their employees, agents, contractors, licensees, directors, officers, partners, trustees, visitors or invitees, or any such person in, on or about the District Premises either prior to, during, or after the expiration of the Term of the Use Agreement (singularly, "Liability"; collectively, "Liabilities"); and

(c) any claim by a third party that Charter School or LAUSD is responsible for any actions by the other party in connection with any use or occupancy of the District Premises or in any way related to this Use Agreement.

Notwithstanding anything to the contrary set forth in this Section, the provisions of this Section 13.1 shall not apply to the extent that all or part of the Liabilities are due to the gross negligence or willful misconduct of the Indemnified Parties or due to the breach of the Indemnified

Party's obligations under this Agreement. The provisions of this Section 13.1 shall survive the expiration or sooner termination of this Agreement.

Charter School or LAUSD shall, upon request by Indemnified Parties, undertake the defense of any Liabilities threatened or asserted against such Indemnified Parties on the following terms and conditions:

(a) The party requesting the benefits of this Section 13.1 shall deliver to the other party a written request for defense of a Liability. The receiving party shall have thirty (30) days after the date of the receipt of the request to determine whether the request for defense is appropriate and deliver either a written notice of assumption of defense or rejection of request ("Notice"). If the receiving party denies the request, the requesting party may defend such Liability and pursue any rights or remedies available at law for the rejection of the request.

(b) If the request for defense has been accepted, such defense shall be conducted by reputable attorneys retained by Charter School or LAUSD, as applicable, selected from a list approved by Charter School or LAUSD, as applicable, all at Charter School's or LAUSD's sole cost and expense. In the event the interests of Charter School or LAUSD and any such Indemnified Parties in the action conflict in such manner and to such an extent as to require, consistent with applicable standards of professional responsibility, the retention of separate counsel for any of the Indemnified Parties involved in the action, Charter School or LAUSD, as applicable, shall pay all fees and costs charged or incurred by separate counsel chosen by such Indemnified Parties.

(c) If Charter School or LAUSD fails to deliver the Notice or fails to choose counsel from the other party's approved list, Charter School or LAUSD shall conclusively be bound by and be liable for all liability suffered or incurred by such Indemnified Party, including without limitation, the amount of any judgment, settlement, compromise, fine or penalty, and all costs and fees of counsel incurred by such Indemnified Party in connection therewith, whether or not such Indemnified Party shall choose to undertake a defense in connection with such Liability.

(d) Charter School and LAUSD agree to promptly notify each other of the commencement of any litigation or proceedings pending, threatened or commenced (whether or not served) against Charter School or LAUSD, or any of their directors, officers, agents or employees, in connection with the matters covered hereby.

#### ARTICLE 14. DAMAGE AND DESTRUCTION

14.1 Notice to LAUSD. Charter School shall provide written notice to LAUSD immediately of any casualty that wholly or partially damages or destroys the Charter School Premises or Charter School Shared Premises.

14.2 If there is damage or destruction, in whole or in part, to the Charter School Premises or Charter School Shared Premises:

(a) Unsafe Access or Use. If Charter School and LAUSD determine that all or substantially all of the Charter School Premises and/or Charter School Shared Premises are

inaccessible or unusable by Charter School in a safe manner, then the parties may mutually agree to terminate this Use Agreement.

(b) Safe Access or Use. If Charter School and LAUSD determine that Charter School can safely continue its educational program from the Charter School Premises, Charter School may elect to continue the Use Agreement in effect; provided, that Charter School's Pro Rata Share Charge shall be adjusted proportionately for that portion of the Charter School Premises and/or Charter School Shared Premises that Charter School cannot and relinquishes use of.

(c) Upon mutual agreement between the parties, Charter School may elect to pay LAUSD for the full estimated cost and expense to repair such damage or destruction, or pay in accordance with a structured payment schedule agreed to by LAUSD. If Charter School exercises such option, this Use Agreement shall continue in full force and effect but the Pro Rata Share Charge and all other charges, expenses and fees shall be proportionately reduced as provided in Section 14.2(b).

(d) If this Use Agreement is terminated pursuant to this Section 14.2, LAUSD shall make best efforts to house Charter School's entire program that was conducted at the Charter School Premises in a single facility for the remainder of the Charter School's planned school year. If LAUSD cannot provide Charter School with a single facility, LAUSD shall make best efforts to provide Charter School with classrooms sufficient to house the Charter School's entire program that was conducted at the Charter School Premises across multiple facilities or by temporary use of DSA compliant modular classrooms, as permitted by law, either on the District Premises or at other District real property that LAUSD deems appropriate; provided, that pursuant to Section 47614(b)(1) of the Education Code nothing herein shall obligate LAUSD to expend unrestricted general fund revenues.

## ARTICLE 15. EMINENT DOMAIN

15.1 Termination of Use Agreement. This Use Agreement shall terminate if all of the Charter Schools Premises or Charter Schools Shared Premises are permanently taken under the power of eminent domain. If only a part of the Charter Schools Premises or Charter Schools Shared Premises is permanently taken under the power of eminent domain, LAUSD or Charter School may elect to terminate this Use Agreement by providing sixty (60) days' written notice to the other party. In the event of a permanent partial taking which does not result in termination of this Use Agreement, the Pro Rata Share Charge shall be proportionately reduced based on the portion of the Charter Schools Premises or Charter Schools Shared Premises rendered unusable, and LAUSD shall restore the Charter Schools Premises or Charter Schools Shared Premises by constructing a demising wall deemed necessary by LAUSD to separate the Charter Schools Premises or Charter Schools Shared Premises from the portion permanently taken. In the event LAUSD terminates this Use Agreement pursuant to this Section, LAUSD shall make best efforts to house Charter School's entire program in a contiguous facility for the remainder of the Charter School's planned school year. If LAUSD cannot house the Charter School's entire program in a single contiguous facility, LAUSD shall make best efforts to provide Charter School with classrooms sufficient to house the Charter School's entire program across multiple facilities or by use of temporary modular classrooms.

15.2 Allocation of Condemnation Award. In the event of a permanent condemnation or taking of all or part of the District Premises, LAUSD shall be entitled to any and all awards which may be made in such taking or condemnation relating to all interests, including the fee title, to the District Premises. Nothing contained in this Article 15 shall be deemed to give LAUSD any interest in or to require Charter School to assign to LAUSD any separate award as designated by the condemning authority made to Charter School for (i) the taking of Charter School's personal property, (ii) interruption of or damage to Charter School's business, or (iii) amounts attributable to Charter School's relocation expenses.

15.3 Temporary Taking. No temporary taking of the Charter Schools Premises or Charter Schools Shared Premises or any part of the Charter Schools Premises or Charter Schools Shared Premises and/or of Charter School's rights to the Charter Schools Premises or Charter Schools Shared Premises or under this Use Agreement shall terminate this Use Agreement or give Charter School any right to any abatement of any payments owned to LAUSD pursuant to this Use Agreement, provided that such temporary taking does not continue for more than five (5) consecutive days or a total of five (5) non-consecutive days in any thirty (30) day period. Any award made by reason of such temporary taking shall belong entirely to LAUSD, except as to compensation for (i) the temporary taking of Charter School's personal property, (ii) interruption of or damage to Charter School's business, or (iii) amounts attributable to Charter School's temporary relocation expenses.

#### ARTICLE 16. CHARTER SCHOOL'S DEFAULT; LAUSD'S REMEDIES

16.1 Charter School's Default. The occurrence of any one of the following events shall be considered a default of this Agreement by Charter School:

(a) The failure of Charter School to pay any charges or fees due and payable hereunder pursuant to the provisions of sections 4.4 or 5.2, as applicable, or otherwise provided herein; provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under Code of Civil Procedure section 1161, and such ten (10) day cure period shall run concurrently with any cure period required under California law, including Code of Civil Procedure section 1161;

(b) The failure of Charter School to observe or perform any of its covenants or obligations hereunder, which failure continues past the notice and cure period provided herein. LAUSD shall provide Charter School with written notice of default and Charter School shall have ten (10) business days to provide a response to LAUSD either evidencing compliance with the terms of this Agreement or a plan to cure the default and a reasonable timeline acceptable by LAUSD within which Charter School will diligently prosecute the same to completion. In no event shall such default continue for more than ninety (90) days after written notice thereof by LAUSD to Charter School without prior written agreement by LAUSD. Any such notice shall be in lieu of, and not in addition to, any notice required under Code of Civil Procedure section 1161; and such cure period shall run concurrently with any cure period required under California law, including Code of Civil Procedure section 1161;

(c) Charter School's abandonment of the Charter Schools Premises for a period of thirty (30) consecutive days, it being agreed that the fact that any of Charter School's property remains in the Charter Schools Premises shall not be evidence that Charter School has not vacated or abandoned the Charter Schools Premises; provided, however, any normal school holidays including summer and inter-term breaks shall not constitute abandonment of the Charter Schools Premises;

(d) The making by Charter School of any general assignment or general arrangement for the benefit of creditors; the filing by or against Charter School of a petition to have Charter School adjudged bankrupt or a petition for reorganization or arrangement under any law relation to bankruptcy (unless the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of the Charter School's assets located at the Charter Schools Premises, or of Charter School's interest in this Agreement, where possession is not restored to Charter School within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Charter School's assets located at the Charter Schools Premises or of Charter School's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

(e) Any failure by Charter School to execute and deliver any statement or document described in Article 20 below within a reasonable period of time after LAUSD's written request for such statement or document. Any such notice shall be in lieu of and not in addition to any notice required under Code of Civil Procedure section 1161, and such thirty (30) day cure period shall run concurrently with any cure period required under California law, including Code of Civil Procedure section 1161;

(f) The assignment, subletting or other transfer of this Agreement in violation of Article 18.

(g) The cessation of the Charter School's program after a revocation, nonrenewal or surrender of the charter to the granting agency. However, the Charter School shall not be in default of this Use Agreement until after the Charter School has exhausted all appeals subsequent to the revocation or nonrenewal of its charter.

#### 16.2 LAUSD's Remedies.

(a) In the event of any default by Charter School and if Charter School fails to cure such default within the time period specified in this Agreement after receipt of written notice from LAUSD of such default, LAUSD shall have the right, in addition to all other rights available to LAUSD under this Agreement or now or later permitted by law or equity, to terminate this Agreement by providing Charter School with a ninety (90) day prior written notice of termination. Upon termination, LAUSD may recover any damages proximately caused by Charter School's failure to perform under this Agreement, or which are likely in the ordinary course of business to be incurred, including any amount expended or to be expended by LAUSD in an effort to mitigate damages, as well as any other damages which LAUSD is entitled to recover under any statute now or later in effect.

(b) In accordance with Civil Code section 1951.4 (or any successor statute), Charter School acknowledges that in the event Charter School has breached this Agreement and abandoned the District Premises, this Agreement shall continue in effect for so long as LAUSD does not terminate Charter School's right to possession, and LAUSD may enforce all its rights and remedies under this Agreement, including the right to recover the Pro Rata Share Charge as it becomes due under this Agreement and the reasonable costs incurred to preserve the property. Acts of maintenance or preservation of the Charter Schools Premises or Charter School Shared Premise or the appointment of a receiver upon initiative of LAUSD to protect LAUSD's interest under this Agreement shall not constitute a termination of Charter School's right to possession. In addition to its other rights under this Agreement, LAUSD has the remedy described in Civil Code section 1951.4.

(c) In the event of any default by Charter School and if Charter School fails to cure such default within the time period specified in this Agreement after receipt of written notice from LAUSD of such default, LAUSD shall also have the right, with or without terminating this Agreement, to enter the Charter School Premises or Charter School Shared Premises and remove all persons and personal property from the District Premises, such property being removed and stored in a public warehouse or elsewhere at Charter School's sole cost and expense. No removal by LAUSD of any persons or property in the District Premises shall constitute an election to terminate this Agreement. Such an election to terminate may only be made by LAUSD in writing, or decreed by a court of competent jurisdiction. LAUSD's right of entry shall include the right to remodel the Charter School Premises or Charter School Shared Premises and re-let the Charter School Premises or Charter School Shared Premises. Any payments made by Charter School or third party to whom the facilities are re-let shall be credited to the amounts owed by Charter School under this Agreement. No entry by LAUSD shall prevent LAUSD from later terminating this Agreement by written notice.

(d) If Charter School fails to perform any covenant or condition to be performed by Charter School within a the time period specified in this Agreement after Charter School received written notice of such failure from LAUSD, LAUSD may perform such covenant or condition at its option, after notice to Charter School. In the event of an Emergency, LAUSD has the right to perform such activity to mitigate the impact of the Emergency. All reasonable costs incurred by LAUSD in so performing shall be reimbursed to LAUSD by Charter School in accordance with section 5.2 hereof. Any performance by LAUSD of Charter School's obligations shall not waive or cure such default. All out-of-pocket, reasonable costs and expenses actually incurred by LAUSD in collecting payments due, or enforcing the obligations of Charter School under this Use Agreement shall be paid by Charter School to LAUSD in accordance with section 5.2 hereof.

(e) The rights and remedies of LAUSD set forth herein are not exclusive, and LAUSD may exercise any other right or remedy now or later available to it under this Agreement, at law or in equity.

#### ARTICLE 17. LAUSD'S DEFAULT; CHARTER SCHOOL'S REMEDIES

17.1 LAUSD's Default. LAUSD shall be considered in default of this Agreement for failure by LAUSD to observe or perform any of its covenants or obligations hereunder which continue beyond the notice and cure period provided herein (except in the event of an emergency,

in which case LAUSD shall perform its obligations immediately). Charter School shall provide LAUSD with written notice of default and LAUSD shall have ten (10) business days to provide a response to Charter School either evidencing compliance with the terms of this Agreement or a plan to cure the default and a reasonable timeline acceptable to Charter School within which LAUSD will diligently prosecute the same to completion. In no event shall such default continue for more than ninety (90) days after written notice thereof by Charter School without prior written agreement by Charter School.

17.2 Charter School's Remedies. If LAUSD fails to perform any covenant or condition to be performed by LAUSD within the time period specified in section 17.1 after LAUSD received written notice of such failure from Charter School, Charter School shall have the right to withhold payment as its remedy for LAUSD non-performance, as specified in Article 4 or Article 5 of this Agreement. In the event of an Emergency, Charter School has the right to perform such activity to mitigate the impact of the Emergency. All out-of-pocket, reasonable costs and expenses actually incurred by Charter School as a result of LAUSD's failure to perform under this Use Agreement, in collecting payments due, or enforcing the obligations LAUSD under this Use Agreement shall be paid by LAUSD to Charter School within thirty (30) days of written demand therefor.

The rights and remedies of Charter School set forth herein are not exclusive, and Charter School may exercise any other right or remedy now or later available to it under this Agreement, at law or in equity.

## ARTICLE 18. ASSIGNMENT AND SUBLETTING

18.1 No Assignment or Subletting. Charter School shall not have the right, voluntarily or involuntarily, to assign, license, transfer or encumber this Use Agreement or lease or sublet all or any part of the District Premises without LAUSD's prior written consent. LAUSD and Charter School acknowledge and agree that this Use Agreement is being entered into so that Charter School may operate a charter school. Charter School acknowledges and agrees that it has no right to assign or sublease this Use Agreement. Any purported transfer shall be void. No consent to transfer shall constitute a waiver of the provisions of this Article 18.

## ARTICLE 19. HAZARDOUS MATERIALS

19.1 Compliance with Laws. Charter School shall comply with all applicable Environmental Laws relating to industrial hygiene and environmental conditions on, under or about the Charter School Premises and Charter School Shared Use Premises, including but not limited to, air, soil and ground water conditions. Charter School shall not use Hazardous Materials on, under or about the Charter School Premises and Charter School Shared Use Premises in violation of Environmental Laws; provided, however, that Charter School may use normal and customary cleaning solutions and office supplies so long as the use of such solutions and supplies are in quantities and in a manner wholly consistent with all applicable Environmental Laws; and further provided that Charter School may use normal and customary chemicals for classroom use so long as the use of such chemicals are in quantities and in a manner wholly consistent with all applicable school standards and approved by LAUSD'S Office of Environmental Health and

Safety (OEHS). Without limiting the generality of the foregoing, Charter School shall not transport, use, store, maintain, generate, manufacture, handle, dispose, Release or discharge any Hazardous Material upon or about the Charter School Premises and Charter School Shared Use Premises in violation of Environmental Laws during the Term of the Use Agreement. In addition, Charter School shall be cognizant of activities that it conducts on the Charter School Premises and Charter School Shared Use Premises which may be considered to be a "project" under CEQA. Prior to engaging in any activity which may trigger CEQA compliance, Charter School shall notify LAUSD of the need for possible environmental review of such activity.

19.2 Notice. Charter School will promptly notify LAUSD in writing if Charter School has or acquires actual notice or knowledge that any Hazardous Material has been or is threatened to be, released, discharged, disposed of, transported, or stored on, in, or under or from the Charter School Premises and Charter School Shared Use Premises in violation of Environmental Laws. Charter School shall promptly provide copies to LAUSD of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the conditions of the Charter School Premises and Charter School Shared Use Premises or compliance with Environmental Laws. Charter School shall promptly supply LAUSD with copies of all written notices, reports, correspondence, and submissions made by Charter School to the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, and any other local, state, or federal authority that requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to Environmental Laws. To the extent Charter School has actual knowledge of the same, Charter School shall promptly notify LAUSD of any liens threatened or attached against the Charter School Premises and Charter School Shared Use Premises pursuant to any Environmental Laws.

19.3 Inspection. LAUSD and LAUSD's agents, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by LAUSD, may (but without the obligation or duty to do so), at any time and from time to time, on not less than two (2) business days' written notice to Charter School (except in the event of an emergency, in which case, no notice will be required), inspect the Charter School Premises and Charter School Shared Use Premises to determine whether Charter School is complying with Charter School's obligations set forth in this Article 19, and to perform environmental inspections and samplings, during regular business hours (except in the event of an emergency) or during such other hours as LAUSD and Charter School may agree. Charter School will comply with the Asbestos requirement as cited in the Asbestos Hazard Emergency Response Act (AHERA), 40 CFR part 763.

19.4 Indemnification. Except to the extent of LAUSD's and LAUSD Parties' negligence or willful misconduct, Charter School shall indemnify, defend (by counsel reasonably approved in writing by LAUSD), protect, save and hold harmless LAUSD and LAUSD Parties from and against any and all Claims arising from any breach of Charter School's covenants under this Article 19.

19.5 LAUSD Disclosures. To the best knowledge of LAUSD and unless identified in Exhibit C attached hereto and incorporated herein or otherwise disclosed to Charter School, the District Premises has not been used to treat, store, process, or dispose of Hazardous Materials, except for normal and customary cleaning solutions and office supplies in quantities and in a manner wholly consistent with all applicable Environmental Laws and normal and customary

chemicals used in the course of LAUSD's programs, and to the best knowledge of LAUSD there are no releases nor have there ever been any releases of such Hazardous Materials at, on, about or under the District Premises which would give rise to a cleanup or remediation obligation under any applicable federal, state or local Environmental Laws or under common law. LAUSD discloses that it presumes many of the LAUSD school campuses have asbestos, including insulation or flooring, lead, and possibly other Hazardous Materials that were acceptable for use from the time of the construction of the District Premises to the present or undiscovered to date. Charter School should use the District Premises with such presumption in mind.

LAUSD hereby indemnifies, defends (by counsel reasonably approved in writing by Charter School), protects, saves and holds harmless Charter School from and against any and all loss, liability, damage, cost, expense or claim arising from (a) any breach of LAUSD's representations and warranties contained in this Use Agreement; or (b) any and all environmental conditions caused by LAUSD or its contractors, agents, employees, invitees, or representatives, or any third parties.

#### ARTICLE 20. NOTICE

20.1 Notice. Except where otherwise indicated in this Agreement, any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery by a representative of the party giving such notice, or (b) overnight delivery by recognized overnight courier, or (c) United States mail, postage prepaid, registered or certified mail, or (d) facsimile (provided that the same shall be followed by delivery of a copy by one of the other permitted means of delivery), addressed as provided in Section 22.24, except as otherwise provided above. Any such notice or communication shall be deemed to have been delivered either at the time of personal delivery actually received by the addressee or a representative of the addressee at the address provided above, or, if delivered on a business day in the case of delivery service or certified or registered mail, as of the earlier of the date delivered or the date forty-eight (48) hours following the date deposited in the United States mail, at the address provided herein, or if by telecopier, upon electronic confirmation of good receipt by the receiving telecopier. LAUSD and Charter School hereby agree that notices may be given hereunder by the Parties' respective legal counsel and that, if any communication is to be given hereunder by LAUSD's or Charter School's legal counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Article 20.

## ARTICLE 21. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE

21.1 Obligations of Charter School. This Agreement and the rights granted to Charter School by this Agreement are and shall be subject and subordinate at all times to all deeds of trust or mortgages now or later affecting or encumbering all or any part of the District Premises and/or any ground or underlying leasehold estate; provided, however, any such subordination shall be subject to the execution of a non-disturbance agreement reasonably acceptable to Charter School by LAUSD under the deed of trust or mortgage; and provided, further, however, that if LAUSD elects at any time to have Charter School's interest in this Agreement be or become superior, senior or prior to any such instrument, then upon receipt by Charter School of written notice of such election, Charter School shall immediately execute all necessary and reasonable subordination instruments or other reasonable documents confirming the subordination of such mortgage or deed of trust to this Agreement.

21.2 LAUSD's Right to Assign. LAUSD's interest in this Agreement may be assigned to any mortgagee or trust deed beneficiary as additional security. Nothing in this Agreement shall empower Charter School to do any act without LAUSD's prior consent which can, shall or may encumber the title of the owner of all or any part of the District Premises.

21.3 Attornment by Charter School. In the event of any foreclosure of any or all mortgages or deeds of trust encumbering the District Premises by trustee's sale, voluntary agreement, deed in lieu of foreclosure, or by the commencement of any judicial action seeking foreclosure, Charter School shall attorn to and recognize the beneficiary or purchaser at the foreclosure sale, as Charter School's landlord under this Agreement, and Charter School agrees to execute and deliver at any time upon request of such beneficiary, purchaser, or their successors, any instrument to further evidence such attornment. Charter School hereby waives its right, if any, to elect to terminate this Agreement or to surrender possession of the District Premises in the event of any such mortgage or deed of trust foreclosure.

21.4 Non-Disturbance. Notwithstanding any of the provisions of this Article to the contrary, in the event of the cancellation or termination of any or all other agreements affecting all or any part of the District Premises in accordance with its terms or by the surrender thereof, whether voluntary, involuntary or by operation of law, or by summary proceedings, or in the event of any foreclosure of any or all mortgages or deeds of trust encumbering the District Premises by trustee's sale, voluntary agreement, deed in lieu of foreclosure, or by the commencement of any judicial action seeking foreclosure, Charter School shall be allowed to occupy the District Premises and this Agreement shall remain in effect, subject to the terms of this Agreement.

## ARTICLE 22. MISCELLANEOUS

22.1 Dispute Resolution. Notwithstanding anything in this Agreement to the contrary, disputes between Charter School and the District regarding this Agreement, including, the alleged violation, misinterpretation, or misapplication of this Agreement, Proposition 39, or State Regulations shall be resolved using the dispute resolution process identified below.

The party initiating the dispute resolution process shall prepare and send to the other party a notice of dispute that shall include the following information: (1) the name, addresses and phone numbers of designated representatives of the party (the designated representatives must be an employee(s) of Charter School or the District); (2) a statement of the facts of the dispute, including information regarding the parties attempts to resolve the dispute; (3) the specific sections of the Agreement that are in dispute; and (4) the specific resolution sought by the party. Within ten (10) business days from receipt of the notice of dispute the representatives from Charter School shall meet with representatives from the District in an informal setting to try to resolve the dispute.

If the informal meeting fails to resolve the dispute the party initiating the dispute resolution process shall notify the other party (the responding party) in writing that it intends to proceed to mediation of the dispute and shall request the State Mediation and Conciliation Service to appoint a mediator within ten (10) business days to assist the parties in resolving the dispute (if the State Mediation and Conciliation Service ("SMCS") is unable or refuses to provide a mediator the parties shall mutually agree upon a mediator with fifteen (15) days from notice that SMCS will be unable to provide a mediator). The initiating party shall request appointment of a mediator who is available to meet as soon as possible but not later than 30 calendar days after receipt of the request for appointment. The party initiating the dispute shall forward a copy of the notice of the dispute to the appointed mediator. The responding party shall file a written response with the mediator and serve a copy on the initiating party within seven business days of the first scheduled mediation. The mediation procedure shall be entirely informal in nature; however, copies of exhibits upon which either party bases its case shall be shared with the other party in advance of the mediation. The relevant facts should be elicited in a narrative fashion to the extent possible, rather than through examination and cross examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made. If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the District and Charter School.

Either party may seek equitable or injunctive relief prior to the mediation to preserve the status quo or prevent irreparable injury pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or 45 calendar days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

22.2 Merger. The voluntary or other surrender of this Agreement by Charter School, or a mutual cancellation of this Agreement, shall not work a merger, and shall, at the option of LAUSD, terminate all or any existing subleases or subtenancies, or may, at the option of LAUSD, operate as an assignment to it of Charter School's interest in any or all such subleases or subtenancies.

22.3 Relationship. The relationship between LAUSD and Charter School is not and shall not be deemed or construed either as a partnership or as a joint venture.

22.4 Quiet Enjoyment. Provided Charter School has performed all of the terms, covenants, agreements and conditions of this Agreement, including the payment of all other sums due hereunder, Charter School shall peaceably and quietly hold and enjoy the District Premises for the Term hereof, but subject to the provisions and conditions of this Agreement, against

LAUSD and all persons claiming by, through or under LAUSD. Charter School's right to use the District Premises as herein provided shall be subject to restrictions or other limitations or prohibitions resulting from any Applicable Law now in force or which may hereafter be in force.

22.5 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

22.6 Captions. The captions and headings of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof.

22.7 Amendment. No amendment or modification to this Agreement shall be effective for any purpose unless in writing signed by LAUSD and Charter School indicating an intent to modify this Use Agreement.

22.8 Choice of Law. This Agreement shall be governed by the laws of the State of California.

22.9 Interpretation. This Agreement shall be deemed to be jointly prepared by both Parties hereto, and any ambiguities or uncertainties herein shall not be construed for or against either of the Parties.

22.10 Attorneys' Fees. In the event either party should commence an action against the other to enforce any obligation set forth herein, the unsuccessful party shall pay to the prevailing party its costs of litigation or arbitration, including reasonable attorneys' fees, whether or not the suit is brought to judgment or conclusion in arbitration.

22.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

22.12 Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to the matters covered hereby, and no prior agreements, oral or written, or understandings or representations of any nature whatsoever pertaining to any such matters shall be effective for any purpose unless expressly incorporated into the provisions of this Agreement. The provisions of this Agreement shall not be amended or altered except by an instrument in writing signed by both Parties.

22.13 Successors and Assigns. Subject to the provisions hereof relative to assignment, this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, transferees, successors and assigns of the respective Parties hereto; provided, however, that the terms of this Agreement shall be binding, without exception or limitation, against any school district(s) or similar governmental agency that may be created as a subset of or

successor to LAUSD as owner of the District Premises or as chartering agency with respect to the Charter Petition, as it may be extended or amended from time to time.

22.14 Time Is of the Essence. Time is of the essence with respect to the performance or observance of each of the obligations, covenants and agreements under this Agreement.

22.15 Gender. As used herein, the neuter gender includes the feminine and the masculine, the masculine includes the feminine and the neuter, and the feminine includes the masculine and the neuter; and each includes corporation, partnership or other legal entity when the context so requires.

22.16 Waiver. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof. Consent to or approval of any act by one of the parties hereto shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act, nor shall any custom or practice which may grow between the Parties in the administration of the terms hereof be deemed a waiver of, or in any way affect, the right of LAUSD to insist upon the performance by Charter School in strict accordance with said terms. Nothing in this Agreement shall be deemed a waiver of the Charter School's right to challenge the District's compliance or lack thereof with its obligations under Proposition 39 or the Implementing Regulations.

22.17 Cumulative Remedies. No remedy herein shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity or by statute, and every power and remedy given by this Agreement may be exercised from time to time and as often as occasion may arise or as may be deemed expedient.

22.18 Force Majeure. Whenever either party hereto shall be required by the terms of this Agreement or by law to perform any contract, act, work, construction, labor or services, or to perform and comply with any laws, rules, orders, ordinances, regulations or zoning regulations, said party shall not be deemed to be in default herein and the other party shall not enforce or exercise any of its right under this Agreement, if and so long as nonperformance or default herein shall be directly caused by strikes, nonavailability of materials, war or national defense preemptions or civil disobedience, governmental restrictions, alien invasion, or other similar causes beyond the reasonable control of the non-performing party.

22.19 Incorporation. The terms and conditions of all Exhibits hereto are incorporated herein by this reference.

22.20 Sale. LAUSD shall have the right at any time and from time to time during the Term hereof to sell, encumber or assign all or any portion of its fee interest, if any, in the property; subject, however, to the leasehold estate of Charter School created by this Agreement.

22.21 Reasonableness. Unless this Agreement provides for a contrary standard, whenever in this Agreement the consent or approval of LAUSD or Charter School is required, such consent or approval shall not be unreasonably withheld or delayed; and unless a contrary standard or right is set forth in this Agreement, whenever LAUSD or Charter School is granted a right to take action, exercise discretion, or make an allocation, judgment or other determination, LAUSD or Charter School shall act reasonably and in good faith and take no action which may result in the frustration

of the reasonable expectations of a sophisticated Charter School and a sophisticated landlord concerning the benefits to be enjoyed under this Agreement.

22.22 Authorization to Sign Agreement. If Charter School is a corporation, each individual executing this Agreement on behalf of Charter School represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Charter School in accordance with a duly adopted resolution of Charter School's Board of Directors, and that this Agreement is binding upon Charter School in accordance with its terms. If Charter School is a partnership or trust, each individual executing this Agreement on behalf of Charter School represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Charter School in accordance with the terms of such entity's partnership agreement or trust agreement, respectively, and that this Agreement is binding upon Charter School in accordance with its terms, and Charter School shall, concurrently with its execution of this Agreement, deliver to LAUSD upon its request such certificates or written assurances from the partnership or trust as LAUSD may request authorizing the execution of this Agreement. Each individual executing this Agreement on behalf of LAUSD represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of LAUSD and this Agreement is binding upon LAUSD in accordance with its terms.

22.23 Covenants and Conditions. All provisions, whether covenants or conditions, on the part of Charter School shall be deemed to be both covenants and conditions.

22.24 Addresses for Notices. All notices, demands, disclosures, acknowledgments, consents, approvals, statements, requests, responses, and invoices to be given under this Agreement will, unless otherwise indicated herein, be in writing, and will be effective upon receipt and addressed to the address for each respective party as set forth in the Fundamental Provisions.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

PROPERTY OWNER:

LOS ANGELES UNIFIED SCHOOL DISTRICT

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Yekaterina Boyajian

Title: Director Non-Academic Facilities Planning

CHARTER SCHOOL:

**Excelencia Charter Academy**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A  
SHARED USE AGREEMENT**

**CONTACT INFORMATION**

**Charter School: Excelencia Charter Academy**

On-site Principal or Lead Administrator

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**1. On-site Assistant Principal or Administrator Next In Charge**

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**2. On-site Contact for Health Emergencies**

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**LAUSD School: Sunrise Elementary**

On-site Principal or Lead Administrator

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**1. On-site Assistant Principal or Administrator Next In Charge**

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**2. On-site Contact for Health Emergencies**

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

**CALENDAR**

**CHARTER – PLEASE ATTACH A COPY OF YOUR CALENDAR FOR THE ENTIRE SCHOOL YEAR 2018-2019**

First Day of Instruction: \_\_\_\_\_

Last Day of Instruction: \_\_\_\_\_

**EXHIBIT A  
SHARED USE AGREEMENT**

**LAUSD**

First Day of Instruction: \_\_\_\_\_

Last Day of Instruction: \_\_\_\_\_

**SCHOOL HOURS**

**Charter**

Before-school program hours: \_\_\_\_\_

Start of School: \_\_\_\_\_

End of School: \_\_\_\_\_

After-school program hours: *(Please see Disclosures, attached as Exhibit "C" to the Use Agreement. Further action is required and additional fees may apply.)*

**LAUSD**

Before-school program hours: \_\_\_\_\_

Start of School: \_\_\_\_\_

End of School: \_\_\_\_\_

After-school program hours: \_\_\_\_\_

**HOLIDAY/BREAK SCHEDULE – Please see attached 2018-2019 Calendar**

Charter: \_\_\_\_\_

LAUSD: \_\_\_\_\_

**ACCESS**

Charter will instruct its employees and students to utilize the following gate for entry and exit to the campus:

Charter will instruct its visitors to utilize:

( ) The gate identified above for entry and exit to the campus and Charter will be responsible to monitor the gate to control access.

( ) The front gate to the campus used by the District school and the Charter will comply with LAUSD visitor policy. Charter shall have a charter employee escort the visitor to and from the Charter area.

Charter School may elect to utilize the parking lot, up to Charter School's Maximum Allocation percentage identified in Exhibit B. Charter School's usage is subject to Exhibit C (Disclosures). Specific arrangements, such as locations of parking areas and spaces, should be mutually agreed upon following discussions between the Charter and LAUSD School administrators and/or Local District Representatives.

## EXHIBIT A SHARED USE AGREEMENT

### **EXCLUSIVE SPACE**

Charter will occupy the following areas exclusively:

Classroom Numbers: 28, 29, 30, 31, 32 (Office), 33 (Sp Ed), 34

Total Number of Teaching Stations: 5

Auxiliary Areas As Listed: \_\_\_\_\_

### **SHARED SPACE**

Restrooms: All restrooms will be shared as needed

Charter use of shared space is agreed-upon as follows:

Area	Max. Daily Allocation to Charter School <sup>1</sup>	Daily/Weekly Charter School Schedule
Multipurpose Room	111 min.	8:00am – 9:51am
Library	111 min.	8:00am – 9:51am
Faculty Lounge / Dining	111 min.	8:00am – 9:51am
Parent Center	111 min.	8:00am – 9:51am
Computer Lab	111 min.	8:00am – 9:51am
Running Track/Blacktop/Field	111 min.	8:00am – 9:51am
Outdoor Basketball/Blacktop/Field	111 min.	8:00am – 9:51am
Outdoor Volleyball/Blacktop/Field	111 min.	8:00am – 9:51am
Handball Walls/Blacktop/Field	111 min.	8:00am – 9:51am

- 1) Proposition 39 regulations require shared space to be shared proportionately with the Charter. The percentage for Charter School use is calculated based on the ratio of total Charter School exclusive use teaching stations vs. total LAUSD school exclusive use teaching stations. The particular shared use spaces available and Charter School's maximum use rights are listed above. To the extent that shared use standard or small classroom spaces not identified above exist at the offered school site and have not been eliminated to provide exclusive use teaching station space to Charter School, Charter School is entitled to shared use of these spaces up to Charter School's Maximum Allocation identified herein. Charter School's resulting pro rata share obligation may be subject to modification following negotiations and confirmation of shared use space allocations and schedules between the Charter School and District School administrators.

**EXHIBIT A  
SHARED USE AGREEMENT**

Calendars for the Shared Use Areas shall be available to both schools and located at:

\_\_\_\_\_

Charter School Principal and/or his/her designee shall meet with the District Principal and/or his/her designee every \_\_\_\_\_ at \_\_\_\_\_ in order to discuss upcoming events and/or any other issues that may arise.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Authorized Charter School Representative

\_\_\_\_\_  
LAUSD Principal

**EXHIBIT B**  
**LAUSD Facilities Cost Worksheet for 2018-2019 School Year**

NOTES*	DESCRIPTION	TOTAL COSTS	COST PER SQUARE FOOT	TOTAL COST PER CATEGORY
(1)	Debt Service - interest and principal on COPS	\$43,427,442.40	\$0.59	\$0.59
	<b>Maintenance &amp; Operations</b>			<b>\$7.15</b>
(1) (2)	Air Filter Tech and Building Engineering	\$3,914,761.00	\$0.05	
(1) (2)	Pest Management	\$2,756,406.00	\$0.04	
(1) (2)	Custodial (Buildings)	\$145,182,172.00	\$1.97	
(1) (3)	Rubbish Removal	\$9,503,304.00	\$0.13	
(1) (2)	Routine Repairs General Maintenance (RRGM)	\$241,620,056.65	\$3.27	
(1) (2)	Utilities (Electricity, Water, Gas)	\$124,499,740.00	\$1.69	
	<b>Safe and Comfortable</b>			
(1) (3)	School Police Services	\$77,081,480.00	\$1.04	<b>\$1.04</b>
(1) (3)	Office of Environmental Health & Safety (OEHS)	\$19,753,147.00	\$0.27	<b>\$0.27</b>
(1) (3)	Information Technology Division	\$19,945,327.00	\$0.27	<b>\$0.27</b>
(4)	Deferred Maintenance	\$0.00	\$0.00	<b>\$0.00</b>
(1) (3) (5)	Insurance	\$11,833,071.00	\$0.16	<b>\$0.16</b>
	<b>Grounds Costs</b>			<b>\$0.15</b>
(1) (6)	Gardening Services	\$11,013,968.00	\$0.05	
(1) (6)	Landscaping/Tree Trimming	\$3,083,189.00	\$0.01	
(1) (6)	Custodial (Grounds)	\$20,470,310.00	\$0.09	
			<b>GRAND TOTAL</b>	<b>\$9.63</b>
<b>LEGEND</b>	Total K-12 building square footage and direct support space		73,859,166	
	Footprint for K-12 buildings and direct support space		48,920,946	
	Total District building square footage		85,711,931	
	Total grounds square footage		275,081,400	
	Net grounds square footage		226,160,454	

**\*NOTES:**

- (1) Calculation of facilities costs based upon actual 2016-17 school year expenses  
(2) Total K-12 building square footage and direct support space  
(3) Rubbish removal, school police, OEHS, ITD and insurance costs calculated as 86.2% of total District building square footage  
(4) Deferred Maintenance was paid for by bond funds during 2016-17 school year  
(5) District's premiums for excess liability, property coverage, boiler & machinery, and property floater  
(6) Net grounds square footage = Total grounds square footage less Footprint for K-12 buildings and direct support space

Exhibit B  
2018-19 SY Facilities Costs  
Pro Rata Share Calculations

NOTE: The "Total Number of Charter Administration Offices" (Item "O") identified in this Exhibit B includes spaces for Charter School's documented special education needs.

Exhibit B  
2018-19 SY Facilities Costs  
Pro Rata Share Calculations

LAUSD Campus: SUNRISE EL

Charter School: Excelencia Charter Academy

M =	Total Number of Charter Teaching Stations	5
N =	Total Number of LAUSD Teaching Stations	14
O =	Total Number of Charter Administrative Offices	2

% of Shared Use Space =  $\frac{\text{Total \# of Charter Teaching Stations (M)}}{\text{Total \# of All Teaching Stations (M + N)}}$

% = 0.26

---

**Exclusive Space Square Footage**

Total Charter School Exclusive Use Square Footage of  
6,796 Teaching Stations (M) and Administrative Offices (O) = A

---

**Pro Rata Share Calculations<sup>1</sup>**

A = 6,796 A = Charter School Exclusive Use Square Footage of Teaching Stations and Administrative Offices

B = 3,817 B = Total Charter School Shared Use Space Square Footage Obligation  
(See Attached Shared Use Space Calculation Worksheet)

C = \$9.63 C = 2018-2019 Facilities Costs per Square Foot

X = A \* C \$65,450.20 X = Charter School Exclusive Use Pro Rata Share Amount

Y = B \* C \$36,759.99 Y = Charter School Shared Use Pro Rata Share Amount

Z = X + Y \$102,210.19 Z = TOTAL PRO RATA SHARE CHARGE DUE ANNUALLY FROM CHARTER SCHOOL

<sup>1</sup>In accordance with California Code of Regulations, title 5, section 11969.9, subdivision (f), the pro rata share calculations identified herein are projections and are subject to change based on determination of the final facilities costs calculated pursuant to California Code of Regulations, title 5, section 11969.7.

Exhibit B  
2018-19 SY Facilities Costs  
Pro Rata Share Calculations

**SHARED USE SPACE CALCULATION**

<u>Area, per Exhibit A</u>	<u>Area Square Footage</u>	<u>Charter %*</u>	<u>Charter School Pro-Rata Shared</u>
Multipurpose Room	5,965	26%	1,570
Library	1,452	26%	382
Faculty Lounge/ Dining	1,406	26%	370
Restrooms (both student & faculty)	3,210	26%	845
Parent Center	1,551	26%	408
Computer Lab	923	26%	243
Total Charter School Shared Use Space Square Footage Obligation			3,817

\* "Charter %" is calculated by using the total weekly hours of Charter School use of each individual Area (per Exhibit A) divided by a total of 35 hours per week. Charter % is "% of Shared Use Space" which is the maximum shared use time allocation entitlement for the Charter School (on a weekly basis), as provided by law, unless otherwise agreed to by the Parties in Exhibit A ("Shared Use Agreement").

\*\*The exact number of science labs, and Charter School's resulting pro rata share obligation, may be subject to modification following negotiations and confirmation of shared use space allocations and schedules between the Charter School and District School administrators.

**EXHIBIT C**  
**LAUSD DISCLOSURES**

1. Beyond the Bell. LAUSD discloses that the District Premises are used by Beyond the Bell to provide enrichment programs and these enrichment programs may occur in those portions of the District Premises that are not designated for the exclusive use of LAUSD and Charter School. These Beyond the Bell enrichment programs will have priority use of those portions of the District Premises that are not designated for the exclusive use of either party.

Current programs, if any, are attached hereto as Attachment C-1.

2. Civic Center Permits. LAUSD discloses that in accordance with the Civic Center Act, Ed. Code section 38130 et seq. and its Board Rule, the District Premises are used by the community and general public through civic center permits. If Charter School wants to use the District Premises (excluding those portions designated for the exclusive use of either party) after school hours, Charter School shall notify the appropriate regional office of Beyond the Bell of its proposed use and Beyond the Bell will determine if the Charter School's proposed use will conflict with any issued civic center permits. If there will be a conflict with any issued civic center permits, Beyond the Bell will determine if the civic center permit can be cancelled to accommodate the Charter School's use. Beyond the Bell shall not be required to cancel a civic center permit if the civic center permit holder would receive less than ten (10) business days written notice of cancellation. Prior to issuing a new civic center permit, Beyond the Bell shall notify Charter School of the requested use and Charter School shall have the opportunity to notify LAUSD of any scheduled use that may conflict with the request.

The civic center permits currently issued, if any, are attached hereto as Attachment C-2.

3. Lease; License. LAUSD discloses that the District Premises have been used in the past and continue to be used by third-parties through the issuance of leases or licenses. Any use of the District Premises shall be subject to the leases and licenses existing as of the Effective Date of this Agreement and/or those leases and/or licenses that LAUSD may issue in the future; provided, that prior to issuing a new lease or license, LAUSD shall notify Charter School of the requested use and Charter School shall have the opportunity to notify LAUSD of any scheduled use that may conflict with the request.

The leases, licenses or joint use agreements currently issued, if any, are attached hereto as Attachment C-3.

4. Lockdowns. LAUSD discloses that a number of events may occur on the District Premises or in the neighborhood surrounding the District Premises that may require the District Premises to go into "lockdown" status, which means all students are secured in buildings until emergency personnel have authorized the release of the students and movement on the District Premises. It is recommended that Charter School maintain those supplies it deems appropriate for a lockdown. LAUSD shall not be liable to Charter School or its students for any costs, expenses or damages arising from any lockdown of the District Premises.

5. Emergency Supplies. It is recommended that Charter School, at its sole cost and expense, maintain water, food, toilet paper, and other supplies that it deems appropriate for its students in the event an emergency occurs. LAUSD shall not provide Charter School with any emergency supplies and Charter School agrees that LAUSD shall not be liable for any costs, expenses, damages or claims arising from emergency supplies or the lack thereof.

6. Emergency Shelter or Location. LAUSD discloses that each of its schools may be used as an emergency shelter, meeting place, command center, etc. in the event of an emergency declared by any Federal, State, county or city agency with such powers ("emergency location"). This means that notwithstanding any provision of this Agreement, if an emergency has been declared and the District Premises deemed needed, Charter School may be denied access to and use of the District Premises in order for the District Premises to be used for such things as, but not limited to, a command center of operations, providing shelter to displaced people, storage of equipment, supplies, and goods, or temporary morgue. LAUSD shall not be liable to Charter School or its students for any costs, expenses or damages arising from Charter School's inability to access and/or use the District Premises in the event of an emergency or damage, destruction or theft of Charter School's property at the District Premises. Charter School may pursue against the agency occupying the District Premises as an emergency location any remedies for any damage, destruction or theft of Charter School's property at the District Premises arising from the use of the District Premises as an emergency location.

7. Hazardous Materials. All available data and reference sources utilizing geographic information and related mapping software application programs were utilized to identify known hazardous material/environmental conditions on or beneath the identified school site. Based upon staff's review, no known conditions were identified. In addition, a review of the Los Angeles Unified School District, Office of Environmental Health and Safety database entitled Industrial Facilities Near LAUSD Schools identified three (3) facilities whose normal operations may present a risk of explosion, or may potentially expose school occupants to hazardous air emissions.

8. Joint Use Agreements. None.

9. Average Daily Attendance Disclosures. The facilities allocated by the District to Charter School pursuant to this Agreement are based on the in-district classroom Average Daily Attendance assumptions identified by the District. If Charter School's actual in-district classroom Average Daily Attendance at the School Site exceeds those in-district classroom Average Daily Attendance assumptions, the District discloses that it may assess a fee to Charter School for facilities related services due to resulting increased impacts and costs incurred by the District for the School Site. The fee will be treated as "Fee-For-Services Charges" and be payable by Charter School to the District pursuant to the provisions in Article 5.1 of this Agreement. The fee will be determined based on the District's out-of-pocket costs for additional facilities related services, including, but not limited to, supplies, air filter tech and building engineering, pest management, building custodial (staff and/or services provided, including supervision and other administrative costs), rubbish removal, routine repairs and general maintenance, utilities, school police services, Office of Environmental Health & Safety, insurance, and ground costs (including gardening services, landscaping/tree trimming, and custodial). For purposes of determining whether a fee is applicable under this disclosure, Charter School's actual in-district classroom Average Daily

Attendance will be determined using the report submitted pursuant to section 11969.9(l) in conjunction with the first principal apportionment under Education Code section 41601. Nothing in this disclosure shall be interpreted to constitute a waiver by the District for any violations of Charter School's charter related to its actual enrollment.

10. Other Disclosures. The District discloses that it has received State of California facilities funding and may receive additional state funds to modernize the School, and/or other sources of grant funding, and the District is obligated to maintain the School in good repair and to meet the standards of California Code of Regulations, Title 5, et seq. and Education Code 17251 (c) and (d). Accordingly, the State of California and/or others have the right to access all of the facilities of the School Site, including the Charter School's Exclusive Use Space and Shared Space, to audit and inspect the School for grant compliance.

11. Shared Use of Storage, Nursing Station and Parking Lot. Charter School may share usage of storage, nursing station, and parking lot with the District School, each up to Charter School's Maximum Allocation percentage identified in Exhibit B (Facilities Costs). Charter School's shared usage of these facilities is subject to Exhibit C (Disclosures). Based on the shared use square footage / percentage of storage and nursing station by Charter School, the Pro Rata Share Charge (Exhibit B) will be increased to reflect this adjustment

12. Data Connectivity / Internet Service: The District Premises are wired for telephone and computer data connectivity. Based on a variety of factors, including, but not limited to, site-specific network and data connectivity configurations at each District school site, Charter School's current occupancy and usage of the District Premises, and Charter School's forthcoming March 1 written response to the District's preliminary proposal pursuant to 5 CCR section 11969.9(g), the District discloses that conditions pertaining to Charter School's use of the District Premises include finalizing details prior to the commencement of the Term of this Agreement related to data connectivity and internet service made available to Charter School, Charter School's responsibility for payment of costs for data and services provided, terms and conditions of use, work related to physical/logical network separation between Charter School and District-operated programs, and potential separate agreements between Charter School, the District and/or third-party internet service providers.

13. Science Lab(s). The District places the following conditions on Charter School's shared use of science laboratory classroom spaces:

- Charter School may only use science laboratory classroom space based on time that accounts for a full educational period based on the District school's schedule at the proposed site;
- Should Charter School's shared use of the science laboratory classroom space require the District to dislocate District students who would otherwise attend class in that science laboratory classroom space for a particular educational period, and no other teaching stations are available at the proposed site to accommodate the displaced District students for that educational period, the District school will serve its own students in Charter School's exclusive use teaching station space during

that educational period. In such circumstances, Charter School's exclusive use teaching space allocation will not be reduced, but Charter School may not take any measures to prevent the District school from serving its own students in such space. Such measures include, but are not limited to, setting an alarm system and/or placing locks on the door of the exclusive use teaching station;

- Due to security concerns, Charter School may only use the shared science laboratory classroom space during such days and times that the District school on the proposed site is open, operational and providing instruction to District K-12 students.
- Please be advised that, while Science laboratory classroom spaces provided for shared use by Charter School will be contiguous within the meaning of California Code of Regulations, title 5, section 11969.2, subdivision (b), they might not be located in the same cluster of exclusive use teaching stations provided to Charter School at the proposed site.
- The District's Office of Environmental Health and Safety ("OEHS") has developed and implemented a Chemical Hygiene Plan ("CHP") to minimize employee and student exposure to hazardous chemicals in schools with science laboratories. A qualified Chemical Safety Coordinator ("CSC") is appointed at each location with a chemical laboratory to implement the CHP. In order to use the science laboratory classrooms, Charter School must comply with the CHP, including but not limited to, designating and maintaining a trained member of its professional staff as its CSC and who will be responsible for participating in chemical safety training, participating in hazard communication training, and reviewing the Science Safety Handbook for California Public Schools. Duties of Charter School's CSC will include training Charter School's employees on chemical safety, ensuring that safe laboratory procedures are adhered to, maintaining reference materials including Material Safety Data Sheets, inspecting and maintaining safe chemical storage rooms, completing chemical inventories, providing oversight for packaging and removal of hazardous waste, and collaborating with the District school's CSC on all related issues. Charter School will be bound by all District and OEHS health and safety requirements, including but not limited to "Reference Guide 1563.2 – Chemical Safety Coordinators" (copy available at <http://www.lausd-oehs.org/docs/ReferenceGuides/REF-1563.2.pdf>) when using science laboratory classrooms. Only chemicals approved by the State of California and OEHS may be used in District school laboratory classrooms. These chemicals are designated as "LAUSD-Approved Laboratory Chemicals."
- Charter School must confirm that its insurance policies cover Charter School's use of District science laboratory classroom space.

14. Conference Rooms. Should the District Premises have conference rooms and/or other private meeting spaces and should Charter School desire use of such spaces, Charter School will be provided shared use of these spaces in proportion to Charter School's maximum shared use entitlement, as identified in the Shared Use Agreement attached as Exhibit "A" to the Use

Agreement. Charter School's pro-rata share charge will be adjusted to include Charter School's proportionate share of conference rooms and/or other private meeting spaces.

15. Shared-Use Schedules. Shared-use schedules are to be negotiated between the District principal and co-located Charter School principal in good faith. The District discloses that certain changes to the District school's schedule, including but not limited to changes to the lunch and recess schedule or changes to the length of time for recess and lunch, may require approval of the District school's Local School Leadership Council prior to the implementation of such change.

16. After-School Program Use. Prior to utilizing the District Premises after Charter School's instructional day hours (as identified in the Shared Use Agreement) for purposes of conducting a program for Charter School's students, whether run by Charter School or any third-party ("After-School Program Use"), Charter School shall first notify the District's Leasing and Asset Utilization Department of its intended After-School Program Use. The District discloses that additional fees may apply for After School Program Use of the District Premises.

## **ATTACHMENT C-1**

### *Sunrise Elementary*

#### **BEFORE AND AFTER SCHOOL PROGRAMS: Youth Services/LA's BEST**

Through the After School Education and Safety (ASES) and 21<sup>st</sup> Century Community Learning Center grants (21stCCLC), Beyond the Bell and over 30 partnering community-based organizations continue to implement comprehensive before and after school programs beginning 1.5-2 hours before the school day and/or from school dismissal until 6:00 pm daily. Comprehensive after school programs must operate at a 20:1 student/instructor ratio and must include three components per day-- academic, enrichment, and recreation.

Academic Assistance (literacy, math and homework assistance) is offered the first hour of the program on days when Extended Learning Activities are being offered. CAHSEE Prep, homework assistance, tutoring, mentoring programs, reading/math/science/social science activities, and credit reclamation. These grant funded comprehensive school programs continue to serve approximately 69,000 K-8 students and 7,000 high school students daily.

## ATTACHMENT C-2

None.

### ATTACHMENT C-3

<i>Location</i>	<i>Facility</i>	<i>Start</i>	<i>End</i>	<i>Times</i>	<i>Organization Name</i>
<i>Sunrise ES</i>	<i>(1) Classroom</i>	<i>5/1/1993</i>	<i>4/4/2044</i>	<i>daily - 2:00 pm to 6:00 pm</i>	<i>YMCA – Weingart ELA</i>

## FUNDAMENTAL PROVISIONS

### SINGLE-YEAR FOOD SERVICES AGREEMENT

The following fundamental provisions are incorporated into the Food Services Agreement ("Agreement"). The provisions shall have the following meanings throughout the Agreement.

(a) LAUSD or District:	Los Angeles Unified School District, a unified school district existing under the laws of the State of California.																				
(b) Operator:	_____, operating that charter school known as _____ ("CHARTER SCHOOL") a California Charter School.																				
(c) School Site:	CHARTER SCHOOL shall be located on the following District School Site: _____.																				
(d) Term:	The Term of this Agreement shall commence on Charter School's first day of instruction for the 2018-19 school year, and expire on Charter School's last day of instruction for the 2018-19 school year or <b>June 30th, 2019</b> , whichever is sooner, unless terminated otherwise as outlined in this Agreement.																				
(e) CHARTER SCHOOL's Address for Notices:	_____, CA _____ ATTN: _____ Phone No.: _____ Facsimile No.: _____ Email Address: _____																				
(f) LAUSD's Address for Notices:	Los Angeles Unified School District 333 South Beaudry Avenue Los Angeles, California 90017 ATTN: Director of Food Services Phone No.: 213- 241-2993 Facsimile No.: 213-241-4881																				
(g) CHARTER SCHOOL's per meal charge:	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <th style="width: 15%;">Grade Level</th> <th style="width: 15%;">Breakfast (\$)</th> <th style="width: 15%;">Lunch (\$)</th> <th style="width: 15%;">Snack (\$)</th> <th style="width: 15%;">Supper (\$)</th> </tr> <tr> <td>K - 5</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> </tr> <tr> <td>6 - 8</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> </tr> <tr> <td>9 - 12</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> <td>XXX</td> </tr> </table>	Grade Level	Breakfast (\$)	Lunch (\$)	Snack (\$)	Supper (\$)	K - 5	XXX	XXX	XXX	XXX	6 - 8	XXX	XXX	XXX	XXX	9 - 12	XXX	XXX	XXX	XXX
Grade Level	Breakfast (\$)	Lunch (\$)	Snack (\$)	Supper (\$)																	
K - 5	XXX	XXX	XXX	XXX																	
6 - 8	XXX	XXX	XXX	XXX																	
9 - 12	XXX	XXX	XXX	XXX																	

**SINGLE-YEAR FOOD SERVICES AGREEMENT**

BY AND BETWEEN

**LOS ANGELES UNIFIED SCHOOL DISTRICT,**  
a Unified School District duly organized and existing under the laws  
of the State of California,

AND

**XXXXXXXXXX OPERATING THAT CHARTER SCHOOL KNOWN AS**  
**XXXXXXXXXXXXXXXXXXXX,**  
a Charter School

## **SINGLE-YEAR FOOD SERVICES AGREEMENT**

This Food Services Agreement ("Agreement") is made and entered into as of the last date of the full execution of this Agreement (the "Effective Date"), by and between the Los Angeles Unified School District, a school district duly organized and existing under the laws of the State of California ("LAUSD" or "District"), and CHARTER SCHOOL (collectively referred to herein as the "Parties", and individually referred to herein as a "Party") with reference to the following:

### **RECITALS**

WHEREAS, LAUSD is the owner of and operates public schools to provide a public education to those students residing within its jurisdictional boundaries;

WHEREAS, CHARTER SCHOOL has chosen to utilize the District's Food Services Division ("FOOD SERVICES"), a food service program duly formed and existing under the laws of the State of California and United States Department of Agriculture ("USDA"), to provide meals to CHARTER SCHOOL's in-district students at the School Site;

WHEREAS, FOOD SERVICES is listed as the School Food Authority ("SFA") for CHARTER SCHOOL, administering the official National School Lunch Program ("NSLP"), School Breakfast Program, After School Snack Program, and all other associated programs. FOOD SERVICES will prepare and serve meals that meet the National School Lunch and School Breakfast Program and After School Snack Program meal requirements as established by the USDA to CHARTER SCHOOL's in-district students;

NOW, THEREFORE for good consideration had and received, and the mutual covenants and obligations contained herein, the Parties agree as follows:

#### **ARTICLE 1. FOOD SERVICES RESPONSIBILITIES**

FOOD SERVICES shall comply with the responsibilities set forth in EXHIBIT "A", which is attached hereto and made a part hereof.

#### **ARTICLE 2. CHARTER SCHOOL RESPONSIBILITIES**

CHARTER SCHOOL shall comply with the responsibilities set forth in EXHIBIT "B," which is attached hereto and made a part hereof.

#### **ARTICLE 3. COSTS AND PAYMENTS**

3.1 CHARTER SCHOOL STUDENT CO-PAYMENTS. CHARTER SCHOOL's students will be responsible for providing to the District the same per meal co-payment (i.e., the student's responsibility for paying) that the District's students provide, which currently is as follows:

Grade Level	Breakfast (\$)*			Lunch (\$)			Snack (\$) **			Supper (\$)***		
	Free	Reduced	Full Priced	Free	Reduced	Full Priced	Free	Reduced	Full Priced	Free	Reduced	Full Priced
K – 5	0.00	.30	2.25	0.00	.40	3.00	0.00	0.00	0.00	0.00	0.00	0.00
6 – 8	0.00	.30	2.50	0.00	.40	3.25	0.00	0.00	0.00	0.00	0.00	0.00
9 – 12	0.00	.30	2.75	0.00	.40	3.50	0.00	0.00	0.00	0.00	0.00	0.00

\* For schools participating in “Breakfast In The Classroom (BIC)”, the co-pay is waived.

\*\* Schools in Non-Area Eligible (less than 50% Free and Reduced Eligibility) are subject to a co-payment by each reduced and full-price eligible student.

\*\*\* Supper Programs are only hosted at Area Eligible Schools (50% and over Free and Reduced Eligibility). If a Non-Area Eligible school chooses to host a Supper Program, co-payments by students will apply.

NOTE: At schools that participate in Provision 2 Programs, student co-payments are waived at all eligibility levels.

CHARTER SCHOOL’s students may be eligible for free and reduced meals, and the District will collect all applicable reimbursement amounts.

3.2 CHARTER SCHOOL’S PER MEAL CHARGE. CHARTER SCHOOL’s charge is the balance of actual costs the District incurs for each meal it provides to CHARTER SCHOOL’s students at the School Site, less (1) co-payments from CHARTER SCHOOL’s students to the District and (2) free, reduced and full-price meal reimbursements for CHARTER SCHOOL’s eligible students collected by the District. The actual costs the District incurs for each meal provided is unique to the circumstances of CHARTER SCHOOL and the School Site. Determination of actual meal costs takes various factors into account, including, but not limited to, whether meals are prepared on- or off-site, student enrollment and the total number of meals served, staffing needs, and the number of students who are eligible for free, reduced and full-price meals. The per-meal amount owed by CHARTER SCHOOL to LAUSD is identified in section (g) of the Fundamental Provisions of this Agreement. CHARTER SCHOOL shall pay for the total number of breakfasts, lunches, snacks and suppers delivered by FOOD SERVICES (based on the number of meals CHARTER SCHOOL requested), including any meals that were not actually served to CHARTER SCHOOL students. If CHARTER SCHOOL directs FOOD SERVICES to provide meals to any CHARTER SCHOOL student who is not (a) eligible for a free- or reduced-price co-payment and (b) willing / able to pay the full-price co-payment, then CHARTER SCHOOL will responsible for the student’s co-payment share obligation to the District.

3.3 INVOICE. FOOD SERVICES shall provide CHARTER SCHOOL an itemized written invoice no later than the 15th day of each month, covering the period for the prior full month (“Invoice”). FOOD SERVICES reserves the right to adjust prices to reflect changing conditions and costs of service, upon sixty (60) days’ advance written notice to CHARTER SCHOOL. FOOD SERVICES shall deliver the Invoice to CHARTER SCHOOL’s address set forth in section (e) of the Fundamental Provisions of this Agreement.

3.4 PAYMENT. CHARTER SCHOOL shall pay the District by check or cash within thirty (30) days following the receipt of the Invoice. If CHARTER SCHOOL fails to pay any portion, the unpaid amounts shall bear interest at the lesser of: (i) the rate publicly announced from time to time by the largest (as measured by deposits) chartered bank operating in California, as its prime rate, reference rate or other similar benchmark rate, plus two percent (2%), or (ii) the maximum rate then allowed by law ("Interest Rate") from the date such amount is due until the date paid. CHARTER SCHOOL shall submit payment to the District's address set forth in section (f) of the Fundamental Provisions of this Agreement within the thirty (30) days of Invoice received. If CHARTER SCHOOL does not remit payment to LAUSD within the thirty (30) days, FOOD SERVICES may immediately stop providing all meal services as set forth in EXHIBIT A. Meal services will not resume until and unless payment, with applicable Interest Rate, is made in full.

3.5 PAYMENT DISPUTES. If CHARTER SCHOOL disputes all or any part of the Invoice, CHARTER SCHOOL shall pay the undisputed portion of the charges, and shall deposit the disputed amount into escrow with an escrow company authorized to do business in the state of California or otherwise mutually agreed between the Parties, at CHARTER SCHOOL's expense. The Parties agree to first attempt to resolve such disputes pursuant to the dispute resolution provisions in CHARTER SCHOOL's approved charter petition, if any. The disputed amount shall remain in escrow until the payment dispute is resolved either through the dispute resolution process or by a final judgment from a court of competent jurisdiction. Any interest accrued on the escrowed funds shall be allocated to the Parties proportionally on the same percentage allocation as the disputed payment amount.

In such instance where CHARTER SCHOOL disputes its obligations to pay all or part of the invoiced amount, CHARTER SCHOOL shall provide LAUSD with a letter or notice entitled "Payment Under Protest" stating that CHARTER SCHOOL plans to dispute such payment and proof of deposit of funds into escrow provided by the escrow company. The Payment Under Protest notice shall be provided to LAUSD by the date that payment would have been due. CHARTER SCHOOL shall provide further letter to LAUSD specifying in detail why CHARTER SCHOOL is not required to pay all or part of such amount within thirty (30) days following the payment due date.

#### ARTICLE 4. TERMINATION

This Agreement may be terminated by either Party upon providing thirty (30) days' advance written notice of intent to terminate. Meal services will be provided by FOOD SERVICES, and payments by CHARTER SCHOOL will remain due and owing, for the notice period. Termination of this Agreement will not absolve CHARTER SCHOOL of any outstanding payment obligations.

#### ARTICLE 5. AUDITS

FOOD SERVICES shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent records pertaining to services, payments and students served pursuant to this Agreement. All records shall be kept and maintained by FOOD SERVICES and made

available to CHARTER SCHOOL during the Term of this Agreement and for a period not less than three (3) years after final payment hereunder by CHARTER SCHOOL, in accordance with applicable statutes and regulations.

Should FOOD SERVICES be audited by the NSLP or any other governmental entity, FOOD SERVICES and CHARTER SCHOOL each shall be responsible for fully complying with such audit requests and shall fully cooperate therewith.

#### ARTICLE 6. INDEPENDENT CONTRACTOR RELATIONSHIP

LAUSD and CHARTER SCHOOL intend and hereby agree and acknowledge that the relationship between LAUSD and CHARTER SCHOOL is solely an independent contractor type relationship, and not a principal/agent, partnership, joint venture, employment or master/servant relationship. CHARTER SCHOOL and LAUSD are acting on their own behalf and neither is operating as an agent of the other.

#### ARTICLE 7. COMPLIANCE WITH LAWS AND REGULATIONS

FOOD SERVICES is exclusively responsible for preparing and delivering all breakfasts, lunches, snacks and/or supper meals (unless designated otherwise by CHARTER SCHOOL) to CHARTER SCHOOL, that meet the NSLP, School Breakfast Program, and After School Snack Program meal requirements, and federal, state and local statutes and regulations. As such, CHARTER SCHOOL shall not discriminate in the delivery of any breakfasts, lunches, snacks and/or supper meals provided by FOOD SERVICES, and will ensure CHARTER SCHOOL's students are offered the opportunity to participate in the school meal program.

Any penalties, fines or damages resulting from lack of compliance with federal or state laws or the NSLP, School Breakfast Program, or After School Snack Program meal requirements, in performing the services hereunder as required by CHARTER SCHOOL are the sole and exclusive responsibility of CHARTER SCHOOL. Any penalties, fines or damages resulting from lack of compliance with federal or state laws or the NSLP, School Breakfast Program, or After School Snack Program meal requirements, in performing the services hereunder as required by LAUSD are the sole and exclusive responsibility of LAUSD.

Gifts or exchanges of meals are not permitted. Until a meal is served to a CHARTER SCHOOL student, the food prepared by FOOD SERVICES remains the property of the state and federal governments and FOOD SERVICES; it cannot be sold, given away, or exchanged for other goods.

#### ARTICLE 8. GENERAL PROVISIONS

8.1 NOTICES. Except where otherwise indicated in this Agreement, any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery by a representative of the Party giving such notice, or (b) overnight delivery by recognized overnight courier, or (c) United States mail, postage prepaid, registered or certified mail, or (d) facsimile (provided that the same shall be followed by delivery of a copy by one of the other

permitted means of delivery). Any such notice or communication shall be deemed to have been delivered either at the time of personal delivery actually received by the addressee or a representative of the addressee at the address provided above, or, if delivered on a business day in the case of delivery service or certified or registered mail, as of the earlier of the date delivered or the date forty-eight (48) hours following the date deposited in the United States mail, at the address provided herein, or if by telecopier, upon electronic confirmation of good receipt by the receiving telecopier. LAUSD and CHARTER SCHOOL hereby agree that notices may be given hereunder by the Parties' respective legal counsel and that, if any communication is to be given hereunder by LAUSD's or CHARTER SCHOOL's legal counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Article.

8.2 GOVERNING LAW. This Agreement shall be governed by the laws of the State of California.

8.3 ENTIRE AGREEMENT/AMENDMENT. All Exhibits and Attachments are hereby fully incorporated into this Agreement. This Agreement contains all of the agreements of the Parties with respect to the matters covered hereby, and no prior agreements, oral or written, or understandings or representations of any nature whatsoever pertaining to any such matters shall be effective for any purpose unless expressly incorporated into the provisions of this Agreement. The provisions of this Agreement shall not be amended or altered except by an instrument in writing signed by both Parties.

8.4 WAIVER. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof. Consent to or approval of any act by one of the Parties hereto shall not be deemed to render unnecessary the obtaining of such Party's consent to or approval of any subsequent act, nor shall any custom or practice which may grow between the Parties in the administration of the terms hereof be deemed a waiver of, or in any way affect, the right of LAUSD to insist upon the performance by CHARTER SCHOOL in strict accordance with said terms.

8.5 ASSIGNMENT. This Agreement shall not be assigned to any other person or entity. Subject to the provisions hereof relative to assignment, this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, transferees, successors and assigns of the respective Parties hereto.

8.6 TIME IS OF THE ESSENCE. Time is of the essence with respect to the performance or observance of each of the obligations, covenants and agreements under this Agreement.

8.7 INVALIDITY / SEVERABILITY. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8.8 CAPTIONS. The captions and headings of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Agreement of the intent of any provision hereof.

8.9 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Fax signatures are permitted and shall have the same effect as original wet signatures.

8.10. FORCE MAJEURE. Whenever either Party hereto shall be required by the terms of this Agreement or by law to perform any act, work, labor or services, or to perform and comply with any laws, rules, orders, ordinances, regulations or zoning regulations, said Party shall not be deemed to be in default herein and the other Party shall not enforce or exercise any of its right under this Agreement, if and so long as nonperformance or default herein shall be directly caused by strikes, nonavailability of materials, war or national defense preemptions or civil disobedience, governmental restrictions, alien invasion, or other similar causes beyond the reasonable control of the non-performing Party.

8.11 AUTHORIZATION TO SIGN AGREEMENT. If CHARTER SCHOOL is a corporation, each individual executing this Agreement on behalf of CHARTER SCHOOL represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of CHARTER SCHOOL in accordance with a duly adopted resolution of CHARTER SCHOOL's Board of Directors, and that this Agreement is binding upon CHARTER SCHOOL in accordance with its terms. If CHARTER SCHOOL is a partnership or trust, each individual executing this Agreement on behalf of CHARTER SCHOOL represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of CHARTER SCHOOL in accordance with the terms of such entity's partnership agreement or trust agreement, respectively, and that this Agreement is binding upon CHARTER SCHOOL in accordance with its terms, and CHARTER SCHOOL shall, concurrently with its execution of this Agreement, deliver to LAUSD upon its request such certificates or written assurances from the partnership or trust as LAUSD may request authorizing the execution of this Agreement. Each individual executing this Agreement on behalf of LAUSD represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of LAUSD and this Agreement is binding upon LAUSD in accordance with its terms.

8.12 CONTACT. Questions, concerns or issues regarding daily operations, menu / compliance, should be addressed to the Area Food Services Supervisor or School Food Services Manager (Cafeteria). If needs are not met, the Deputy Director of Food Services shall be contacted at 213-241-3366.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

LAUSD:

LOS ANGELES UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Date: \_\_\_\_\_

CHARTER SCHOOL:

XXXXXXXXXX SCHOOL

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

**EXHIBIT "A"**  
**FOOD SERVICES RESPONSIBILITIES**

1. FOOD SERVICES will serve as the School Food Authority ("SFA") for CHARTER SCHOOL, administering the official National School Lunch Program ("NSLP"), School Breakfast Program, After School Snack Program, and all other associated meals programs. FOOD SERVICES will be responsible for establishing student meal eligibilities, serving meals to students in a manner that is conforming to federal, State and local health department codes, and meets the requirements established by the United States Department of Agriculture ("USDA") and the California State Department of Education ("CDE"). All accounting for meals in the proper eligibility categories and filing of meal reimbursement claims directly with the CDE will be the responsibility of FOOD SERVICES.
2. FOOD SERVICES shall prepare and serve all breakfasts, lunches, snacks and/or supper meals (unless designated otherwise by CHARTER SCHOOL), which meet the requirements of the NSLP, School Breakfast Program, After School Snack Program, and all other associated meals programs. Breakfasts, lunches, snacks and suppers (as applicable) must comply with the nutritional standards for lunches and/or breakfasts and/or snacks and/or suppers as established by the USDA.
3. FOOD SERVICES shall determine the participation of programs. This includes, but is not limited to, Provision 2, Provision 3, After School Snack Programs, summer feeding programs, Breakfast in the Classroom, and so on. Participation is determined by numerous factors, such as school meal participation, student free/reduced-priced eligibility, student enrollment, and CDE regulations.
4. FOOD SERVICES shall maintain all necessary records as required by the regulatory guidelines for a SFA. Data and records will be kept on the nutritional analysis and quantities of the lunches, breakfasts and snacks/suppers (as applicable) delivered to CHARTER SCHOOL's students, and shall make said records available for inspection by state and federal authorities upon request.
5. FOOD SERVICES will provide reports to the CHARTER SCHOOL as reasonably requested by CHARTER SCHOOL, or otherwise as reasonably necessary for CHARTER SCHOOL to prepare reports and information to meet its needs. No eligibility codes will be released or shared unless required by law. CHARTER SCHOOL shall have access to supporting documentation regarding CHARTER SCHOOL students at all times, to the extent allowed by law. If CHARTER SCHOOL needs access to supporting documentation, a request must be submitted to FOOD SERVICES in writing at least four (4) weeks in advance, for FOOD SERVICES to prepare for distribution.
6. FOOD SERVICES shall provide all the necessary paper goods, service ware and service equipment needed for the operation for all CHARTER SCHOOL students purchasing food provided by FOOD SERVICES.
7. FOOD SERVICES shall prepare and/or deliver the lunches, breakfasts, snacks and supper

meals (as applicable) to the Cafeteria of the School Site identified in section (c) of the Fundamental Provisions of this Agreement ("CAFETERIA"). The District will ensure that CAFETERIA maintains the appropriate State and local health certifications for the facility and staff. FOOD SERVICES reserves the right to change the location of CAFETERIA, when necessary (e.g., in cases of emergency or during renovations), to another CAFETERIA. FOOD SERVICES will notify CHARTER SCHOOL of the new location at or before the time meals are delivered to the School Site.

8. FOOD SERVICES shall prepare and deliver meals for CHARTER SCHOOL, except on days when LAUSD is not in operation, such as federal holidays, or other days the School Site is not in session. CHARTER SCHOOL may choose service for LAUSD non-operating days and will carry the cost of double time and a half for LAUSD FOOD SERVICES staff. The notification of staff during non-LAUSD operating days requires a ten (10) working days advance notification. Failure to follow the requested timeline may result in staff not being available.
9. FOOD SERVICES shall provide to CHARTER SCHOOL, no later than one (1) week prior to the end of each month, a monthly menu of the lunches, breakfasts and snacks being offered in the upcoming month. This information will also be available on the FOOD SERVICES' website: <http://cafe-la.lausd.net> and on <http://schoolmenu.com>.
10. When requested by CHARTER SCHOOL, FOOD SERVICES shall provide CHARTER SCHOOL with sack lunches and/or breakfasts, for field trips, and other special outings which meet the NSLP and School Breakfast Program meal requirements. CHARTER SCHOOL must provide a request for these events at least fifteen (15) working days in advance to the Food Services Manager.
11. FOOD SERVICES shall be responsible for all equipment, supplies, food and paper goods delivered to CAFETERIA. FOOD SERVICES will be responsible for the replacement of all kitchen and service equipment, as needed.
12. FOOD SERVICES may provide additional staff to serve lunches, and/or breakfasts if the CHARTER SCHOOL so designates, pursuant to the Staffing Section and the salary and benefits specifications. CHARTER SCHOOL shall pay actual labor and benefits related to the request.
13. If CHARTER SCHOOL would like to utilize the School Site's kitchen facilities after normal operations for a special event, the District's "Use of Cafeteria Facilities" form must be submitted at least ten (10) business days prior to the special event. An employee of FOOD SERVICES will be required to be present to supervise the use of the kitchen, and fees will apply.
14. In the event of emergencies, FOOD SERVICES will make every effort to provide services including but not limited to continuing meal service during the normal school periods where it is safe for our staff and students. CHARTER SCHOOL may request extra services, or service outside of the normal course of operations, to its students, staff and site personnel

in emergency circumstances. A fee equal to FOOD SERVICES' reasonable, actual, out-of-pocket costs for these services will apply. Emergencies include, but are not limited to, the following: lockdowns, power outages, earthquakes, and any unplanned event that is a disruption to normal food services schedules.

15. Placement of FOOD SERVICES staff at the School Site will be in accordance with the Personnel Commission ("PC") rules, and District policies and procedures. FOOD SERVICES' staff working at the School Site will have met all District and PC requirements for Tuberculosis, Background Checks and Food Service requirements (e.g., Annual Food Handlers Certificates, Sanitation and Safety Certifications for Managers and Senior Food Service Workers). It is the FOOD SERVICES' responsibility to ensure that its entire staff meets these requirements.
16. FOOD SERVICES staff working onsite must report to the onsite Nurse or other health agent annually for obtaining a Food Handler's Certification and any other required clearances to work around food.
17. FOOD SERVICES staff work for LAUSD and receive direction from FOOD SERVICES Administration. Performance Management and day-to-day personnel issues will be handled by the Area Food Services Supervisor ("AFSS") and/or Food Services Manager. Input from the CHARTER SCHOOL's Administration/Principal may be discussed with the AFSS and/or Food Services Manager. LAUSD employee disciplinary documentation, mentoring and coaching will be administered by the AFSS and/or the Food Services Division.
18. FOOD SERVICES will utilize the District's Maintenance and Operations custodial crew to clean-up after each meal at the School Site.
19. FOOD SERVICES offers catering, and will offer these services to CHARTER SCHOOL upon request.
20. If and when the Agreement terminates, FOOD SERVICES shall assume possession and ownership of all unused goods and supplies at the School Site, including, but not limited to, smallwares, foods, produce, and paper supplies.

**EXHIBIT "B"**  
**CHARTER SCHOOL RESPONSIBILITIES**

1. In accordance with the National School Lunch Program ("NSLP"), CHARTER SCHOOL acknowledges that all eligible students must be provided with one nutritionally adequate meal per day.
2. CHARTER SCHOOL will provide FOOD SERVICES with updated CHARTER SCHOOL student enrollment information as needed (but not less than daily).
3. CHARTER SCHOOL shall notify FOOD SERVICES staff located at the Cafeteria of the School Site identified in section (c) of the Fundamental Provisions of this Agreement ("CAFETERIA") of the number of breakfasts needed for CHARTER SCHOOL students by no later than 1:30 p.m. on the previous school day, and the number of lunches and snacks needed for CHARTER SCHOOL students no later than 4 hours before lunch meal service on each school day.
4. CHARTER SCHOOL shall provide a written request to FOOD SERVICES to provide CHARTER SCHOOL with sack lunches and/or breakfasts, for field trips, and other special outings which meet the NSLP and School Breakfast Program meal requirements at least fifteen (15) working days in advance to the Food Services Manager. The cost per sack lunch and/or breakfast shall remain the same as the cost per meal for the regular lunches and/or breakfasts. CHARTER SCHOOL shall be responsible for maintaining the appropriate temperature of lunches and breakfasts served on those field trips.
5. If there are requests by CHARTER SCHOOL to provide meals to any person outside of the CHARTER SCHOOL's student population (e.g., parents, faculty, site administrators and personnel, etc.), CHARTER SCHOOL shall pay the a la carte prices for items served. The a la carte price listing is available on the FOOD SERVICES website at <http://cafelausd.net>. A La carte meal prices are subject to change.
6. At least five (5) working days prior to the start of the Term, CHARTER SCHOOL must enroll, and thereafter update and maintain, all of its students in the District's My Integrated Student Information System ("MiSiS"), so that FOOD SERVICES can provide meals through the point of service system with CHARTER SCHOOL student data required for the District to receive, verify and record CHARTER SCHOOL student's eligibility information. CHARTER SCHOOL student information includes, among other things, an LAUSD student identification number assigned to each CHARTER STUDENT, the student's first and last name, birthdate, gender, homeroom, site assigned, home address, and prior year eligibility.